

# I

**I.** Roman numeral for 1.

The personal pronoun in the singular of the nominative case. Sufficiently connected with the person executing the instrument where it appears in the body of a deed, that he is bound, although his name does not appear above his signature. 23 Am J2d Deeds § 49.

**I am satisfied.** A phrase which, appearing in an acknowledgment, is insufficient as a statement of the officer's knowledge of identity of the person acknowledging. *Newton Finance Corp. v Conner*, 161 Tenn 441, 33 SW2d 95, 72 ALR 1286.

**I believe.** Not necessarily indicative of a conclusion; a phrase which, appearing in the testimony of a witness, indicates that the witness is speaking from observation and recollection or from what he remembers. See 31 Am J2d Ex & Op § 35.

**ibi.** There; at that place; then; thereupon.

**ibid.** Same as **ibidem**.

**ibidem.** In the same place; in that very place. In the same book.

**Ibi esse poenam, ubi et nox est.** Where the crime is, there the punishment should be also. A principle of the Roman law which precluded forfeiture as a punishment of posterity. See 4 Bl Comm 383.

**Ibi jus, ibi remedium.** A maxim of the common law. See **equity will not suffer a wrong, etc.**

**Ibi semper debet fieri triatio ubi juratores meliorem possunt habere notitiam.** The trial of an action ought always to be held in that place where the jurors can have the better information.

**I. C.** Abbreviation of inspected and condemned. *Bergen v Riggs*, 34 Ill 170.

**I.C.C.** Abbreviation of Interstate Commerce Commission.

**ice.** Frozen water; in its uncut state, partaking of the nature of real estate as an accession or increment to the land. 27 Am J1st Ice § 2. But capable of being transferred as personally, either in a cut or uncut state. 27 Am J1st Ice § 11. A profit a prendre in taking from the premises of another by right. 25 Am J2d Ease § 4. Underworld slang for diamonds.

**icebox.** A refrigerator in which ice is the cooling element.

**ice cream.** A frozen food consisting of cream or milk to which eggs and other food elements and flavorings are added. 35 Am J2d Food § 61.

**ice hockey.** See **hockey**.

**ice house.** A building or cave in which ice is stored for purpose of later use.

**ice plant.** A building in which artificial ice is frozen. Also, a place where ice is stored.

**ice rack.** A rack of wood construction, carried upon an ice wagon, and loaded with ice. Anno: 2 ALR 828.

**ice skating.** See skates; skating rink.

**ice wagon.** A truck carrying ice for delivery from door to door; familiar to all in an older day but fast disappearing with the extension of electric lines furnishing current for refrigerators.

**icing cars.** The supplying of old style refrigerator cars on railroads with ice.

**ictus.** A bruise; a blow; a stab; a thrust; a stroke.

**ictus orbis.** A blow or stroke making a bruise without breaking the skin.

**id.** It; that.

**id certum est quod certum reddi potest.** That is certain which can be made certain. 11 Am J2d B & N § 113; 17 Am J2d Contr § 77; 55 Am J1st V & P § 6; 57 Am J1st Wills § 35.

An agreement need not contain definitely and specifically every fact in detail to which the parties may be agreeing; it is sufficient if the phrases can be made certain by proof. 17 Am J2d Contr § 77.

**Id certum est quod certum reddi potest, sed id magis certum est quod de semetipso est certum.** That is certain which can be rendered certain, but that is more certain which is certain in itself.

**idea.** A concept; a product of the mind.

See **copyright; literary property; patent.**

**ideal lien creditor.** A term of the law of bankruptcy relative to the preferred status of a trustee in bankruptcy in asserting priorities; a hypothetical creditor holding a lien by legal or equitable proceedings at the date of bankruptcy, whereby the trustee in bankruptcy, being armed with such a lien by virtue of a provision of the Bankruptcy Act, is enabled to assert priorities as against secret liens, unfiled or unrecorded mortgages, and the like. 9 Am J2d Bankr § 857.

**idem.** The same; the same thing.

**Idem agens et patiens esse non potest.** A person cannot at the same time be the person acting and the person acted upon. Brotherhood of Railroad Trainmen v Barnhill, 214 Ala 565, 108 So 456, 47 ALR 270, 281.

**Idem est facere, et nolle prohibere cum possis.** It is the same thing to do a thing as not to prohibit it when you can.

**Idem est nihil dicere et insufficienter dicere.** It is the same thing to say nothing as not to say enough.

**Idem est non probari et non esse; non deficit jus sed probatio.** A thing is the same when not proved as when non-existent; the law is not lacking, but the proof is.

**Idem est scire aut scire debet aut potuisse.** To know, to be bound to know and to be able to know, are all the same thing.

**Idem non esse est non apparere.** Not to exist is the same thing as not to appear.

The maxim applies to a purchaser, without notice

of an unrecorded deed. *Neslin v Wells Fargo & Co.* (US) 14 Otto 428, 439, 26 L Ed 802, 806.

**idem per idem.** The same for the same; like for like.

**idem quod.** The same as.

**Idem semper antecedenti proximo refertur.** "Idem" (the same) always refers to the immediate antecedent. *Stewart v Stewart* (NY) 7 Johns Ch 229, 248.

**idem sonans.** The same sound. The doctrine, applicable in all legal proceedings, that the use of a name being merely to designate the person intended, such object is fully accomplished where the name given to him has the same sound as his true name. *State v Wahl*, 118 Kan 771, 236 P 652. The doctrine that in all proceedings, whether civil or criminal, a mistake in spelling the name of a party is immaterial if both the correct and the incorrect mode of spelling has the same sound. *Bennett v Winegar*, 103 Neb 843, 174 NW 512. A doctrine applied in determining the effect of mistakes as to the names of parties in entering, docketing, and indexing of judgments, with the result that if two names may be sounded alike without doing violence to the power of the letters formed in the variant orthography, the variance is immaterial. 30A Am J Rev ed Judgm § 111.

Names are idem sonans if the attentive ear find difficulty is distinguishing them when pronounced, or if common and long-continued usage has by corruption or abbreviation made them identical in pronunciation. 38 Am J1st Name § 36.

**identical.** The same exactly. A word sometimes construed according to the context in which it appears. 23 Am J2d Desc & D § 86.

Under a statute which provides that the rights of inheritance of the heirs of the deceased spouse of an intestate shall accrue only where the intestate dies possessed of the "identical" property which came from such deceased spouse, the word "identical" will not be given such a strict and literal construction as to deprive the statute of meaning; a mere change in the evidence of ownership does not require the conclusion that the property owned by an intestate at death is not the "identical" property acquired from a deceased spouse. *Millar v Mount Castle*, 161 Ohio St 409, 119 NE2d 626, 49 ALR2d 381.

**identical causes of action.** See **identity of causes of action.**

identical crimes. See **identity of offenses.**

**identical goods.** See **fungible goods.**

**identical offenses.** See **identity of offenses.**

**identical parties.** See **identity of parties.**

**identical property.** See **fungible goods; identical.**

**identifiable event.** Within the rule that a deductible loss for income tax purposes based on the worthlessness of a stock must be one fixed by an "identifiable event":-an incident or an occurrence that points to or indicates a loss. *Industrial Rayon Corp. v Commissioner* (CA6) 94 F2d 383; *Bartlett v Commissioner of Internal Revenue* (CA4) 114 F2d 634.

**identification.** The means or act of identifying a person, an instrument, or property. Proof that a person or thing is the person or thing it is supposed or represented to be. A Roman law term for imputable negligence. *Duval v Atlantic Coast Line Railroad Co.* 134 NC 331, 46 SE 750.

**identification of instrument.** See **identification.**

**identifying number.** See **account number.**

**identifying trust fund.** See **following trust fund or property.**

**Identitas vera colligitur ex multitudine signorum.** True identity is gathered from a multitude of signs.

**identitate nominis.** A writ which lay for the release of a prisoner who had been committed under the same name as that of the real offender.

**identity.** Sameness; the state of being the same as someone or something assumed, described, or represented. For some purposes, the means of identification. *State v Evjue*, 253 Wis 146, 33 NW2d 305, 13 ALR2d 1201.

**identity certificate.** See **certificate of identity.**

**identity of causes of action.** The same cause of action in two cases, an essential element of *res judicata*. 30A Am J Rev ed Judgm § 363. Two actions asserting the same rights, demanding the same relief, and founded on the same facts. Anno: 31 ALR2d 446 § 3. Not necessarily a matter of identity of subject matter. *Creek v Laski*, 248 Mich 425, 227 NW 817, 65 ALR 1113. Tested generally according to whether or not the same evidence would sustain both causes of action. 30A Am J Rev ed Judgm § 365.

A prerequisite to a plea of abatement on the ground of prior action pending; a term characterizing two actions of the same character, for the same cause and relief, and in all respects identical. *McAllister v McAllister*, 147 Fla 647, 3 So 2d 351. Actions of the same character, for the same cause and relief, and in all respects identical, or actions having the same subject matter, although not demanding exactly the same specific relief. 1 Am J2d Abat & R § 26.

Identity exists irrespective of whether the same specific relief be demanded, if the subject matter of both actions is the same, the ultimate inquiry being whether a judgment in the one action such being rendered first, will be conclusive on the parties with respect to the matters involved in the second. 1 Am J2d Abat & R § 26.

**identity of interests.** See **identity of parties.**

**identity of issues.** See **identical causes of action.**

**identity of legal personalities.** The unity of husband and wife under the common law. 26 Am J1st H & W § 3.

**identity of offenses.** A matter of prior jeopardy, the common law rule and the constitutional provisions against second jeopardy applying only to a second prosecution for the same act and crime, both in law and in fact, on which the first prosecution was based; the test being whether the two offenses are essentially independent and distinct or notwhether one offense can be committed without necessarily committing the other. *State v Westbrook*, 79 Ariz 116, 285 P2d 161. Another test being whether the same evidence is required to prove the offenses. 21 Am J2d Crim L § 182.

As the term "same offense" is used in the constitutional provision that no person shall be twice put in jeopardy for the same offense, or another offense of which the first is a necessary element and consti-

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tutes an essential part. *People v Stephens*, 79 Cal 428, 21 P 856.

If a man simultaneously commits two offenses, either of which may be committed without the other and is then prosecuted for each of the offenses, even if the two prosecutions are based on the same acts, he is not twice put in jeopardy for the same offense; a fortiori, if the two prosecutions are based on different acts though committed simultaneously. *Berry v United States*, 72 App DC 229, 113 F2d 183. A matter of *res judicata*.

The plea of *res judicata* may be available in cases where there is no such identity of offenses in the two prosecutions that a plea of former jeopardy could be sustained. Anno: 147 ALR 992.

**identity of parties.** The prerequisite to joinder of causes of action that all causes should affect all parties to the action, both parties defendant and parties plaintiff. *State ex rel. Alderson v Halbert*, 133 W Va 337, 56 SE2d 114. Not a mere matter of form, but of substance, since parties nominally the same may be, in legal effect different; and parties nominally different may be, in legal effect, the same. *Chicago Rock Island & Pacific R. Co. v Schendel*, 270 US 611, 70 L Ed 757, 46 S Ct 420, 53 ALR 1265. A prerequisite to a plea of abatement on the ground of prior action pending; the same parties on both sides in two or more actions, appearing in the same capacity in each action, and representing the same interest. 1 Am J2d Abat & R § 26.

**identity of the person.** A collateral issue which may be pleaded in bar of execution after a judgment of attainder against the defendant, whereby the question is raised as to whether he is the same person who was thus attained. See 4 Bl Comm 396.

See **identity of parties**.

**ideo.** Therefore; on that account.

**ideo consideratum est.** Therefore it is considered.

**Ideo consideratum est per curiam.** Therefore, it is considered by the court. *Prohibitions Del Roy (Eng)* 12 Coke's Rep 63.

**ides.** The name given under the ancient Roman calendar to the 15th day of the months of March, May, July, and October and to the 13th day of all the other months. *Rives v Guthrie*, 46 NC 84.

"Beware the ides of March." The warning to Caesar-in Act I, Scene II, of Shakespeare's "Julius Caesar."

**id est.** That is; it is; that is to say.

**idiochira.** A privately executed instrument.

**idiocy.** A total absence of mind or reason; a condition of hopeless mental incapacity existing from birth. *Slaughter v Heath*, 127 Ga 787, 57 SE 69; *Owing's Case (Md)* 1 Bland Ch 370.

**idiopathic disease.** A disease which develops gradually, or at least imperceptibly, and, while it may be attributable to external conditions, is also dependent in part on conditions inherent in the individual; a disease which cannot be regarded as an injury by accident. *Iwanicki v State Industrial Acci. Com.* 104 Or 650, 205 P 990, 29 ALR 682, 688.

**idiosyncrasy.** A peculiarity in the temperament of a person; an element of individuality.

See **hypersusceptibility**.

**idiot.** One in the state of idiocy.

See **idiocy**.

**idiots a casu et infirmitate.** An idiot by accident and infirmity.

**idiots a nativitate.** An idiot from birth, a natural fool,—a person who was without understanding from the time of his birth, and therefore is presumed by law never likely to attain any. See 1 Bl Comm 302.

**idiots inquirendo.** See **de idiota inquirendo**.

**idle.** Not employed. In the case of an industrial plant, not operating in production. Anno: 87 ALR 1144.

**idle funds.** Unappropriated public funds. Uninvested funds in a trust.

**idoneare.** To prove one's own innocence; to disprove one's own guilt.

**idoneus.** Appropriate; fit; capable; adequate; suitable; qualified.

**idonetas.** Fitness; adequacy; capability.

**Id perfectum est quod ex omnibus suis partibus constat.** That is perfect which is correct in all of its parts.

**Id possumus quod de jure possumus.** We may do that which we are able to do lawfully.

**Id quod est magis remotum, non trahit ad se quod est magis junctum, sed e contrario in omni casu.** That which is more remote does not draw to itself that which is more proximate, but the contrary, in every case.

**Id quod nostrum est, sine facto nostro, ad alium transferri non potest.** That which is ours cannot be transferred to another without our act.

**Id solum nostrum quod debitis deductis nostrum est.** That only is ours which is ours after the deduction of our debts.

**Id tantum possumus quod de jure possumus.** We may do only so much as we are able to do lawfully.

**Id tenementum dici potest socagium.** That tenure may be called socage. See 2 Bl Comm 79.

**idus.** Same as **ides**.

**i. e.** An abbreviation of *id est*, meaning that is; that is to say.

**if.** A word implying a condition; showing that the expectation of a fulfilment is uncertain, and presupposing that it may not occur. *Doe v Wilson*, 20 Miss 12 Smedes & M 498, 504. Ordinarily, a term of contingency in a will. 57 Am J1st Wills §§ 1222, 1333. An apt term in a contract to indicate a condition. 17 Am J2d Contr § 320.

**if affirmed.** A stipulation in an appeal bond, meaning finally affirmed, so that the bond guarantees the

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payment of the judgment if affirmed finally, even though it may have been first reversed and then affirmed on rehearing or, in the case of an appeal to an intermediate court, it may have been reversed there but subsequently affirmed on a final appeal to the highest court. 5 Am J2d A & E § 1031.

**if any.** In reference to children of a life tenant:having the effect of making a remainder contingent. Anno: 57 ALR2d 128.

The charter of a bridge company requiring the payment of damages "if any," by reason of the erection of the bridge, means all damages including consequential damages. *Buckwalter v Black Rock Bridge Co.* 38 Pa 281.

**if any remains.** A clause which, appearing in a will following a gift of personal property, shows the testator's intention to give the legatee the specific property, with the right to use it for his or her benefit and to consume it in such use if his or her judgment should dictate or his or her necessities compel that course. Anno: 108 ALR 551, 558, 564.

**if appeal is dismissed.** A stipulation in an appeal bond, the effect of which may be to render the sureties liable upon dismissal of the appeal, even though the dismissal be erroneous, but not to render them liable where the writ of error is merely quashed for formal defect in the writ itself, since such would not be a disposal of the cause itself. 5 Am J2d A & E § 1031.

**"if" condition.** A condition which goes to the existence of an obligation. 11 Am J2d B & N § 141.

**if living at his death.** A reference to children of a life tenant to whom the remainder is bequeathed which has the effect of making the remainder contingent. *Collins v Crawford* (Mo) 103 SW 537, affd on reh 214 Mo 167, 112 SW 538.

**I. F. L. W. U.** Abbreviation of International Fur and Leatherworkers Union.

**if no agreement is reached.** A clause having reference to condemnation of property under the power of eminent domain; the condition of absence of agreement, not imposing upon the public body or condemner the duty of attempting to acquire the property by purchase. *Re New York*, 45 Misc 184, 91 NYS 987.

Other authority adheres to a general principle that a bona fide effort to purchase the property by agreement is a condition precedent to the initiation of condemnation proceedings. 27 Am J2d Em D § 387.

**if practicable.** A condition which looks to the aspects of time, space, and physical effort.

As used in a traffic regulation providing it to be the duty of motorists passing in opposite directions to reasonably turn to the right so as to give half the traveled portion of the highway "if practicable" and a fair and equal opportunity to the person so met to pass, the term is not restricted in operation to the physical condition of the highway, but may properly be regarded as applying also to situations created by the person met as by invasion by the latter of the operator's right side of the road, of itself or in conjunction with other circumstances rendering compliance with the statutory direction impracticable. *Gilmartin v D. & N. Transp. Co.* 123 Conn 127, 193 A 726, 113 ALR 1322.

**if you believe.** A phrase used in formulating a hypothetical instruction to jury. 53 Am J1st Trial § 549.

**iglise.** Same as **eglise**.

**ignis judicium.** Trial by fire.

**ignitegium.** Same as **curfew**.

**ignition.** Catching on fire; setting on fire; the means by which a fire is set. The device in an internal combustion engine which ignites the explosive mixture in the cylinder. The instrument on the instrument panel of a motor vehicle whereby the device for igniting is actuated, such instrument usually being provided with a lock, so that the motor can be started only by the use of a key. 7 Am J2d Auto Ins § 29.

**ignition lock.** A lock placed in the instrumentality of a motor vehicle known as the ignition, which, when used, as usually required by statute, is a deterrent to theft and also a safety device in the respect that it prevents interference with the vehicle's stationary condition and mechanical immobility. *Kass v Schneiderman*, 21 Misc 2d 518, 197 NYS2d 979.

**ignominy.** Infamy, reproach, dishonor, public disgrace; public hatred or detestation. *Mahanke v Cleland*, 76 Iowa 401.

See **public ignominy**.

**ignoramus.** Noun: An ignorant person; a vain pretender to knowledge; a dunce. See *Pentuff v Park*, 194 NC 146, 138 SE 616, 53 ALR 626. Verb: Not to know; to take no notice. A word indorsed by the grand jury on the back of the bill when they

thought the charge it made was groundless, the intimation being that it might be true but that they did not know. Commonwealth v Miller (Pa) 2 Ashm 61.

**ignorance.** A passive state, a want of knowledge. Not a matter of being mistaken. Lawrence v Beaubien, 18 SCL (2 Bail) 623, 649.

**ignorance of fact.** Literally, want of knowledge. Equivalent in legal terminology to "error of fact," occurring either when some fact, which really exists, is unknown, or when some fact, which is supposed to exist, really does not exist.

**ignorance of the law.** An expression having reference for the purpose of the presumption that every one knows the law and the corollary that ignorance of the law is no defense, to knowledge of the law of one's own state or country, not the laws of other states or other countries. Haven v Foster, 26 Mass 112.

**ignorance of the law is no excuse.** A maxim applicable in criminal cases. 21 Am J2d Crim L § 94. A maxim applicable in both civil and criminal cases. 29 Am J2d Ev § 222. A maxim of equity. 27 Am J2d Equity § 37.

"Law" for the purposes of the maxim is general law, the ordinary law of the country. The maxim has no application to a private law in support of a private right. Freichnecht v Meyer, 39 NJ Eq 551, 560.

**ignorantia.** Ignorance.

**Ignorantia eorum quae scire tenetur non excusat.** Ignorance of those things which a person is deemed to know is no excuse.

**Ignorantia excusatur, non juris sed facti.** Ignorance excuses, that is, ignorance of fact, but not ignorance of law.

**Ignorantia facti excusat.** Ignorance of fact is an excuse.

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**Ignorantia facti excusat, ignorantia juris non excusat.** Ignorance of fact excuses, ignorance of the law does not excuse. Scott v Ford, 45 Or 531, 78 P 742.

**Ignorantia iudicis est calamitas innocentis.** The ignorance of a judge is the misfortune of an innocent person.

**Ignorantia juris haud excusat.** Ignorance of the law is by no means an excuse. 21 Am J2d Crim L § 94.

**Ignorantia juris neminem excusat.** Ignorance of the law excuses no one. 21 Am J2d Crim L § 94.

**Ignorantia juris non excusat.** Ignorance of the law does not excuse. Freichnecht v Meyer, 39 NJ Eq 551, 560; Scott v Ford, 45 Or 531, 80 P 899.

**Ignorantia juris quod quisque tenetur scire, neminem excusat.** Ignorance of the law, which everyone is presumed to know, does not excuse. Haven v Foster, 26 Mass (9 Pick) 112. Rankin v Mortimere (Pa) 7 Watts 372, 374.

**Ignorantia juris sui non praejudicat juri.** Ignorance of one's own right does not prejudice the right.

**Ignorantia legis neminem excusat.** Ignorance of the law excuses no one. 29 Am J2d Ev § 222.

**Ignorantia legis non excusat.** Ignorance of the law does not excuse. 29 Am J2d Ev § 222.



**Ignorantia praesumitur ubi scientia non probatur.** Ignorance is presumed when knowledge is not proved. Ignorance of the law is no defense. 2 Am J2d Adult § 15.

**ignorare.** To be ignorant of; to ignore.

**Ignorare legis est culpa.** To be ignorant of the law is negligence.

**Ignorare legis est lata culpa.** To be ignorant of the law is gross negligence.

**ignoratio elenchi.** In argument, a mistake or misapprehension of the question under discussion. Statute for Distribution (Va) Wythe 302, 309.

**Ignoratis terminis artis, ignoratur et ars.** The terms employed in an art being unknown, the art is also unknown.

**ignore.** In common parlance, to refuse to take notice, to refuse to consider. To reject or throw out as false or unfounded, as where a grand jury refuses to indict, thereby rejecting the bill. See Ex parte Morton, 69 Ark 48, 51, 60 SW 307.

**Ignoscitur ei qui sanguinem suum qualiter redemptum voluit.** He is excused who chooses to defend his own life. See 1 Bl Comm 131.

**ignotum per ignotius.** That which is unknown by one who is still more unknown.

**iisdem terminis.** See **in iisdem terminis.**

**Ikenild Street.** One of the four great ancient Roman roads in England.

**il.** He; it.

**il covient.** It is fitting.

**Il est communement dit.** It is commonly said.

**ilet.** A small island.

**illegal.** Unlawful; contrary to law; illicit. State v Haynorth, 35 Tenn 64, 65.

See **illicit; unlawful.**

**illegal acts.** A very general and all inclusive term, ineffective, in an injunction, to describe the acts to be restrained. Anno: 120 ALR 349, 124 ALR 776, 127 ALR 888.

**illegal agreement.** See **illegal contract.**

**illegal ballot.** A ballot which because of the method of preparation, the method of marking, or the want of qualification of the voter, should not be counted in determining the result of an election. 26 Am J2d Elect §§ 291 et seq. A ballot which is not to be counted, because not received according to law. 26 Am J2d Elect § 292.

**illegal branding.** The statutory offense of branding or marking cattle without the consent of the owner, and with intent to defraud. *State v Hall*, 27 Tex 333. The misbranding of a product for the purpose of deceiving the public. 56 Am J1st Wts & L § 64.

**illegal conditions.** See **illegal contract**.

**illegal consideration.** An act or forbearance, or a promise to act or forbear, which is contrary to law or public policy. 17 Am J2d Contr § 157.

An illegal consideration is insufficient to support a contract, and an agreement founded upon it is illegal. *Smith v Southwestern Bell Tel. Co. (Okla)* 349 P2d 646, 83 ALR2d 454.

**illegal contract.** An agreement contrary to law, morality, or public policy. 17 Am J2d Contr § 156. A contract founded upon a consideration contrary to good morals, against the principles of sound public policy, in fraud, or in contravention of the provisions of some statute. *Goodrich v Tenney*, 144 Ill 422, 33 NE 44; *Ovitt v Smith*, 68 Vt 35, 33 A 769. Precisely, an agreement, the intent of which conflicts with a statute, a well-clarified rule of the law set forth by judicial decision, or the recognized rights of others so as to threaten the life, disturb the peace, or endanger the safety or morals of other citizens. *Win. Lindeke Land Co. v Kalman*, 190 Minn 601, 252 NW 650, 93 ALR 1393.

**illegal entry.** A federal offense by an alien entering the United States at an unauthorized time or place, or to elude examination or inspection, or to obtain entry fraudulently. 8 USC § 1325.

**illegal fee.** A fee collected by a public officer for private gain, whether collected from a private individual or from the state, a county, or a municipality. *Skeen v Craig*, 31 Utah 20, 86 P 487.

**illegal gaming.** The making of a wager, the placing of bets, in violation of law.

The term implies gain and loss between the parties by betting such as would excite a spirit of cupidity. *Hankins v Ottinger* 115 Cal 454, 47 P 254.

**illegal interest.** Usury; interest in excess of the rate allowed by law. 30 Am J Rev ed Int § 2.

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**illegality.** Unlawfulness; the state of being illegal.

The word is not synonymous with irregularity. Illegality denotes a radical defect, while irregularity is a want of adherence to some prescribed rule or mode of proceeding. *United States v Salomon (DC La)* 231 F 461, aff (Ca5) 231 F 928.

**illegality of contract.** See **illegal contract**.

**illegally procured.** Procured in violation of law.

As used in the naturalization law providing for the cancellation of a certificate "unlawfully procured," the term means procured by subornation or some other illegal means used to impose upon the court; it does not mean that the certificate was issued through error of law. See *United States v Luria (DC NY)* 184 F 643.

**illegal operation.** A surgical operation in violation of law, such as an abortion.

**illegal transaction.** Something beyond a mere intent to violate the law. An illegal intention, accompanied by an act which is criminal or prohibited by law. *Smith v Blachley*, 188 Pa 550, 41 A 619.

See **illegal contract**.

**illegal vote.** See **illegal ballot; illegal voting.**

**illegal voting.** A criminal offense consisting, not merely in voting when not possessed of the proper qualifications, but in doing so wilfully, that is, designedly or purposely, involving either knowledge of disqualification or a reckless disregard of the question of qualification. 26 Am J2d Elect § 375.

**illegitimate.** Broadly, contrary to law. Usually understood in the narrower sense of being born out of wedlock.

See **illegitimate child.**

**illegitimate child.** A natural child, a child born out of wedlock, or born to a married woman under conditions where the presumption of legitimacy is not conclusive and has been rebutted. 10 Am J2d Bast § 1. Not an "heir" within the meaning of a devise or bequest to "heirs," unless the context indicates an intent to consider such child as included or a statute gives an illegitimate child the status of an heir. 10 Am J2d Bast § 135. Not an "heir" of either parent, for the purposes of descent, unless a right of inheritance has been conferred upon such child by statute. 10 Am J2d Bast § 146. Not "issue" within the meaning of such term in the designation of the beneficiary of a gift, unless the intention to include an illegitimate child is clearly deducible from the entire context. 10 Am J2d Bast § 136. Not included in a legacy or devise to "children," unless it appears clearly and unmistakably in other parts of the instrument that the intention of the testators was to include an illegitimate child or children. 57 Am J1st Wills § 1074.

Statutes which provide generally for the distribution of intestate property of a deceased person among certain classes of persons without mentioning illegitimates, are construed to refer to legitimates only, unless there is something in the language of the particular statute which indicates a different intention on the part of the legislature. Anno: 48 ALR2d 764, § [3c]; 10 Am J2d Bast § 149. But the term "issue" appearing in a statute of descent may include children born out of wedlock, where they are capable of inheriting. 10 Am J2d Bast § 149.

The term "illegitimate child" shall not be used in any local law, ordinance, or resolution, or in any public or judicial proceeding, or in any process, notice, order, judgment, record, or other public document or paper, but there shall be used in place of such term the expression "child born out of wedlock." New York General Construction L § 59.

**illegitimate war.** An unlawful war under the law of nations; conquest and depredation. 56 Am J1st War § 5.

**Ille non habet, non dat.** A person cannot grant a thing which he has not. Pennock v Coe (US) 23 How 117, 16 L Ed 436, 441.

**illeviable.** Not leviabale; exempt from levy.

**ill fame.** Bad; repute.

See **house of ill fame.**

**illicenciatus.** Unlicensed; not licensed or permitted.

**illicit.** Unlawful; illegal; prohibited or forbidden by law. State v Miller, 60 Vt 90, 92, 12 A 526.

**illicit cohabitation.** A term more narrow than illicit intercourse; living together as man and wife, though not married. Thomas v United States (DC Mass) 14 F2d 229.

**illicite.** Unlawfully; illegally.

**illicit intercourse.** See **adultery; fornication; illicit cohabitation.**

**illicit relation.** Literally, an illegal relation; usually having reference to an illegal sexual relation, such as adultery or illicit cohabitation.

**illicitum collegium.** (Civil law.) An unlawful corporation,—a voluntary association of persons attempting to form a corporation contrary to law. See 1 Bl Comm 472.

**Illinois Rule of Liquidation.** Same as **Grosscup Rule.**

**illiteracy.** Inability to read or write; want of education. The state of one who is illiterate.

See **illiterate.**

**illiterate.** Unlettered; ignorant of letters or books; untaught, unlearned; uninstructed in science.

A person who can sign his name, may still be illiterate. Hence it is improper to describe a person who cannot sign his name by the word "illiterate." Re Succession of Carroll, 28 La Ann 388, 389.

**illiterate person.** See **illiteracy; illiterate.**

**illness.** Sickness; disease. For some purposes inclusive of both severe and slight attacks, even attacks of a less grave and serious character than a disease. Connecticut Mut. Life Ins. Co. v Union Trust Co. 112 US 250, 259, 28 L Ed 708, 712, 5 S Ct 119. For the purposes of an application for life insurance, a disease or ailment of such a character as to affect the general soundness and health of the system seriously, and not a mere temporary indisposition, which does not tend to undermine or weaken the constitution of the applicant. Metropolitan Life Ins. Co. v Brubaker, 78 Kan 146, 96 P 62.

See **confined; disease; last illness; serious ailment; serious illness; severe illness; sickness.**

**illocable.** Not capable of being hired or let out to hire. ill treatment. Cruelty; abuse. Unfairness.

**illud.** That; that thing.

**Illud dici poterit foedum militare.** That shall be called military tenure. See 2 Bl Comm 79.

**Illud, quod alias licitum non est necessitas facit licitum; et necessitas inducit privilegium quod jure**

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**privatur.** That which is otherwise not lawful, necessity makes lawful; for necessity produces a privilege which dispenses with law.

**Illud, quod alteri unitur extinguitur neque amplius per se vacare licet.** That which is united to another thing is extinguished, nor can it again be detached.

**illuminated signs.** Advertising signs characterized by flashing, intermittent, or steady lights. Anno: 72 ALR 374.

**illuminating oil.** See **kerosene.**

**illumination of way.** See **lighting way.**

**illusion.** That which a person believes that he sees, but which he does not really see. A false conception.

See **hallucination.**

**illusory.** Permeated with illusion; deceiving.

**illusory appointment.** An insubstantial or merely nominal disposition of property made under a power of appointment. 41 Am J1st Pow § 64.

**illusory promise.** A promise so conditioned that the performance thereof is a matter of promisor's option, such promise not being sufficient as consideration for another promise. 17 Am J2d Contr § 105.

**illustrious.** An honorary designation applied to a person who has been born to rank or has attained rank. A term of infrequent use in the United States, except in fraternal orders.

**ill will.** See **malice.**

**imaginary damages.** A paradoxical term sometimes applied to punitive or exemplary damages. 22 Am J2d Damg § 236.

**imagine.** To conceive in the mind.

**iman.** A Mohammedan chief.

**imbargo.** Same as **embargo.**

**imbasing of money.** Same as **debasing coin.**

**imbecile.** A person weak or decrepit in mind. Campbell v Campbell, 130 Ill 466, 22 NE 620. A person with a pronounced mental deficiency. In loose usage, a stupid or very foolish person.

See **imbecility.**

**imbecility.** A term inclusive of many conditions and forms of mental weakness, which may or may not amount to incompetency. 29 Am J Rev ed Ins Per § 3.

See **imbecile.**

**imbedded property.** Property embedded in the earth. 1 Am J2d Aband § 4. Precisely, property other than gold or silver, found imbedded in the soil under circumstances indicating that some person had placed it where found. Ferguson v Ray, 44 Or 557, 77 P 600.

**imbezzle.** Same as **embezzle.**

**imbladare.** To sow grain.

**imbracery.** Same as **embracery.**

**imitation.** Sometime contrived with the purpose of having it appear to be the same as another product. 35 Am J2d Foods § 19.

See **colorable imitation.**

**immaterial.** Not material; not pertinent; of no consequence.

**immaterial allegation.** An unessential allegation in a pleading; an allegation which can be stricken from the pleading without leaving it insufficient; an allegation which need not be proved or disproved. *Green v Palmer*, 15 Cal 411, 416.

**immaterial alteration.** An alteration of an instrument which does not change its legal effect. An alteration of an instrument which does not vary, or have any tendency to vary, the meaning in any essential particular, does not change in any manner the rights or interests, duties or obligations, of either of the parties, and does not mislead any person. 4 Am J2d Alt Inst § 5.

**immaterial averment.** Same as **immaterial allegation**.

**immaterial evidence.** Evidence which is offered to prove or disprove a fact or proposition which is not at issue. 29 Am J2d Ev § 252.

See **material evidence**.

**immaterial issue.** An issue which occurs where a material allegation in the pleadings is not answered, but an issue is taken on some point which will not determine the merits of the case, so that the court must be at a loss to determine for which of the parties to give judgment. *Garland v Davis (US)* 4 How 131, 146, 11 L Ed 907, 914.

**immaterial representation.** A representation in an application for insurance, particularly life or accident insurance, concerning a matter which, if truly stated by the applicant, would not prompt further inquiry by the insurer, does not increase the chance of loss so substantially as to bring about the rejection of the risk or the charging of an increased premium, and is not expressly made material by the terms of the contract of insurance. 29 Am J Rev ed Ins § 701.

**immaterial variance.** A variance between pleading and proof which is not so substantial as to mislead the adverse party to his prejudice in maintaining his cause of action or defense. 41 Am J1st Pl § 371.

**immature claim.** A claim upon an obligation which is not due.

**immature crop.** See **growing crop**.

**immaturity.** Lacking discretion or judgment because of youth. Lacking full growth. The quality of an obligation arising from the fact that it is not yet due or payable.

**immediate.** A word of qualification of both time and distance but having no one precise signification in either respect, being relative to the event. *People v Pool*, 27 Cal 573. As the word appears in a provision for forwarding papers, contained in a liability insurance policy:—with reasonable dispatch. *Harmon v Farm Bureau Mut. Auto. Ins. Co.* 172 Va 61, 200 SE 616.

With reference to locality the word imports not far apart or distant, but like the word presence, it is elastic and is used relatively. In robbery, it is dependent on circumstances or conditions; the distance which property might intervene between the victim and the property taken might vary considerably and still be in the "immediate" presence of the victim. *People v Lavender*, 137 Cal App 582, 31 P2d 439.

**immediate cause of injury.** A phrase often used in defining proximate cause but which itself is incapable of precise definition. *Rodgers v Missouri Pacific Railway Co.* 75 Kan 222, 88 P 885.

**immediate death.** Death resulting within a short time

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after an injury, not necessarily instantaneously. 22 Am J2d Dth § 26.

As an example of an "immediate" rather than an "instantaneous" death, one court has suggested the situation in which a blow on the head produces unconsciousness and renders the victim incapable of intelligent thought, speech, or action for several minutes until he dies. *Sawyer v Perry*, 88 Me 42, 33 A 660. A death resulting about five and one half days after injury, during which time the victim never regained consciousness, has been held to come within a statute authorizing an action for injuries causing "immediate" death. *Farrington v Stoddard* (CAI Me) 115 F2d 96, 131 ALR 1344.

**immediate delivery.** A delivery with expedition, with reasonable haste consistent with fair business activity. 46 Am J1st Sales § 163.

The term does not mean a delivery instanter; the character of the property, its situation, and all the circumstances must be taken into consideration in determining whether there was a delivery within a reasonable time so as to meet the requirement of the statute, and this will often be a question of fact for the jury. *Feeley v Boyd*, 143 Cal 282, 76 P 1029.

**immediate descent.** In one sense of the term, a descent cast directly upon the heir, as where the descent is to a grandson of the intestate, the father or intermediate person being dead. In another and distinct sense, a descent directly from the intestate without intervening link or degree of consanguinity, as from father to son, but not from grandfather to grandson, the latter descent being mediate from this standpoint. *Lessee of Levy v M'Cartee* (US) 6 Pet 102, 8 L Ed 334.

**immediate disability.** A disability which follows directly from an accidental hurt, within such time as the processes of nature consume in bringing the person affected to a state of incapacity. *Rathbun v Globe Indem. Co.* 107 Neb 18, 184 NW 903, 24 ALR 191, 201 (term as used in an accident insurance policy).

See **immediate injury.**

**immediate family.** As the word appears in a mutual benefit certificate or in the rules and regulations of a mutual benefit society:—those members of the same household to which the insured belongs who are bound together by ties of relationship, such as one's parents, wife, children, brothers and sisters, excluding no one within the household for the reason only that he or she is not one whom the head of the family is legally bound to support. 36 Am J2d Frat O § 144.

**immediate hazard.** As a situation for the application of a rule of the road for yielding the right of way, the imminence of collision when the relative speeds and distances of the two vehicles are considered; circumstances from which it must appear to a person of ordinary prudence in the position of a driver that if the two vehicles continue on their respective courses at the same rate of speed, a collision is probable. 7 Am J2d Auto § 202.

**immediate injury.** An injury resulting directly from an act rather than an injury ensuing the act. *Mulchanock v Whitehall Cement Manufacturing Co.* 253 Pa 262, 98 A 554.

See **immediately disability.**

**immediately.** Promptly, with expedition, with reasonable haste consistent with fair business activity. 46 Am J1st Sales § 163. As used in a request made to a carrier for freight cars:—at once. 13 Am J2d Car § 153. As an adverb of time in the clause of an accident policy providing for certain indemnity in case of injury causing total disability "immediately":—proximity of time with the injury, as presently, or without any substantial interval between the accident and the disability. 29A Am J Rev ed Ins § 1526. As a limitation of time for the commencement of an action:—within a reasonable time and without unnecessary delay. *Putnam v Putnam*, 86 Mont 135, 282 P 855.

Courts, looking at the substance of contracts and statutes, have, during the last two centuries, repeatedly declared that the word "immediately," although in strictness it excludes all meantimes, yet to make good the deeds and intents of the parties, it shall be construed "such convenient time as is reasonably requisite for doing the thing." Anno: 16 ALR 609.

**immediately adjacent.** Adjoining or abutting, rather than in the vicinity. *Parsons v Wethersfield*, 135 Conn 24, 60 A2d 771, 4 ALR2d 330 (term in a statutory provision requiring a unanimous vote of the commission on a question of rezoning property over the protest of 20 per cent of the owners of lots "immediately adjacent").

**immediately due at the option of the holder.** Immediately due upon or after the holder's election to exercise the option. *Damet v Aetna Life Ins. Co.* 71 Okla 122, 179 P 760, 5 ALR 434.

**immediately on demand.** Payment after a reasonable opportunity for complying with the demand. 40 Am J1st Paym § 15.

**immediate medical assistance.** As the word appears in a "first-aid" clause in a liability insurance policy:—within a reasonable time after the accident, considering the facts and circumstances of the particular case. *United States Casualty Co. v Johnston Drilling Co.* 161 Ark 158, 255 SW 890, 34 ALR 727.

**immediate notice of defects.** Notice within a reasonable time. Anno: 41 ALR2d 853 (notice of defects constituting breach of warranty).

**immediate notice of dishonor.** A broad characterization of the requirements of the Negotiable Instruments Law, which provides that unless delay is excused, notice of dishonor must be given within the time fixed by the statute. *Legal Discount Corp. v Martin Hardware Co.* 199 Wash 476, 91 P2d 1010, 129 ALR 420 (having reference to Uniform Negotiable Instruments L § 102).

**immediate notice of loss.** Notice to insurer:—notice given with reasonable dispatch, and within a reasonable time, in view of all the facts and circumstances of the case, 29A Am J Rev ed Ins § 1379; notice within such convenient time as is reasonably requisite for communication, after knowledge of the fact comes to the person charged with the duty of giving the notice. Anno: 16 ALR 609. Automobile theft insurance: notice given with due diligence and reasonable promptness under the circumstances of the case. *Friedman v Orient Ins. Co.* 278 Mass 596, 180 NE 617. Fidelity bond or policy of fidelity insurance. Notice within such time after the discovery of the loss as is reasonable under all the circumstances of the case. Anno: 23 ALR2d 1083.

**immediate payment.** See **immediately on demand.**

**immediate surgical relief.** As the expression appears in a "first-aid" clause of a liability insurance policy:

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—emergency or firsthand relief, as distinguished from relief in the usual and ordinary course of treatment of the victim of an accident continued for some time in order to restore him, if possible, to his normal condition. 29A Am J Rev ed Ins § 1443.

**immediately upon arrival.** Phrase appearing in direction to factor to sell:—as soon after arrival as a sale can be made, irrespective of loss, the factor being precluded from exercising his discretion. *Courcier v Ritter* (CC Pa) F Cas No 3282.

**immediate vicinity.** A place adjoining or abutting. 23 Am J2d Deeds § 243. An expression not capable of precise definition, its meaning depending upon the context in which it appears, sometimes indicating actual contact, while at other times and in other connections applicable even where there is an intervening space between the objects or tracts of real estate under consideration. *Smith v Furbish*, 68 NH 123, 44 A 398.

**immemorial.** Before the time of legal memory; time out of mind. *Kripp v Curbs*, 71 Cal 62, 11 P 879.

See **legal memory.**

**immeubles.** Same as **immovables.**



**immigrant.** Every alien in the country except an alien within one of the classes of non-immigrant aliens specified in the Immigration and Nationality Act. 8 USC § 1101(a)(15).

**immigrant alien.** An alien entering the United States for permanent residence with the view of becoming a citizen of the United States. 8 USC §§ 1101(a)(15), 1181, 1184.

**immigrant visa.** A visa required by law of an alien entering the country as an immigrant, issued by a consular officer of the United States. 8 USC § 1101 (16); 3 Am J2d Aliens § 55.

**immigration.** The coming of foreigners into the country for purposes of permanent residence. 3 Am J2d Aliens § 48.

**Immigration and Nationality Act.** A comprehensive federal statute controlling the immigration, admission, entry, and exclusion of aliens, also the naturalization and admission of aliens to citizenship. 8 USC §§ 1101 et seq.

**Immigration and Naturalization Service.** A federal agency in the Department of Justice, for the administration of immigration laws, particularly the Immigration and Nationality Act. 5 USC §§ 342b; 8 USC § 1101(34); 3 Am J2d Aliens § 52.

**immigration officer.** Any employee of the Immigration and Naturalization Service designated to perform functions in reference to the admission, naturalization, etc. of aliens. 8 USC § 1101 (18).

**immigration quota.** See **quota.**

**Immigration Service.** See **Immigration and Naturalization Service.**

**imminence of danger.** The presence of danger of death or great bodily harm, as will justify a killing in self-defense. 26 Am J1st Homi § 137.

See **imminent peril.**

**imminence of death.** The approach of death, not merely the expectation of death which all mortals must entertain. 28 Am J Rev ed Inher T § 128.

**imminent.** Overhanging, about to materialize, especially something of a dangerous nature. Threatening; full of danger. *Collins v Liddle*, 67 Utah 242, 247 P 476.

**imminent insolvency.** Insolvency likely to occur at any moment. *Arnold v Globe Exchange Bank*, 40 F2d 555.

**imminently dangerous article.** An article, such as poison or an explosive, which contains within itself the elements which render it dangerous to life and limb at all times and under all conditions. An article of a kind in common use without disastrous results, but dangerous to life and limb unless safely and properly constructed, such as a machine operated by power. *Olds Motor Works v Shaffer*, 145 Ky 616, 140 SW 1047.

**imminently dangerous motor vehicle.** A motor vehicle which because of defective construction is reasonably certain to place life and limb in peril when put to use. 8 Am J2d Auto § 658.

**imminent peril.** Threatened peril; danger immediately at hand.

See **imminence of danger.**

**immiscere.** To mingle; to mix.

**immittere.** To put into possession; to admit.

**immobilia.** Immovables.

See **bona immobilia.**

**Immobilia situm sequuntur.** Immovable things follow their location (as to the law which governs them).

**immobilis.** Immovable.

**immoderate.** Beyond reasonable limits.

**immoral.** Wicked. Hostile to the welfare of the general public; having a tendency to mischievous or pernicious consequences. *Jones v Dannenberg Co.* 112 Ga 426, 37 SE 729. Unrestrained by law or principles of good conduct in sexual relations; licentious.

**immoral consideration.** A consideration, the furnishing of which is against public morals and public decency, a stock example of which is the commencement or continuance of meretricious sexual intercourse. 17 Am J2d Contr §§ 183, 184.

**immoral contract.** An agreement clearly repugnant to sound morality. *Veazey v Allen*, 173 NY 359, 66 NE 103.

See **immoral consideration.**

**immorality.** Conduct, behaviour, or practices which are immoral, that is, in violation of principles of decency and good conduct, especially meretricious sexual relations; licentiousness. 17 Am J2d Contr §§ 183, 184. Something more than the mere refusal of a minority to obey the wishes of the majority, or to subscribe to every view the majority may express as to their religious convictions. *Poynter v Phelps*, 129 Ky 381, 111 SW 699.

See **gross immorality; poverty and immorality.**

**immoral purpose.** Literally, a purpose to commit an act which is immoral. A term to be construed according to the context in which it appears.

As used in a provision of the Immigration Act excluding aliens who are prostitutes or persons coming into the United States for the purpose of prostitution or for any other "immoral purpose," the term is limited to purposes of like character with prostitution, and does not include extramarital relations, short of concubinage. *Hansen v Haff*, 291 US 559, 78 L Ed 968, 54 S Ct 494.

The interstate transportation, by a member of a religious sect, one of whose tenants is polygamy, of a plural wife either for the purpose of cohabiting

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with her or for the purpose of aiding another member of the cult in such a project, is for an "immoral purpose" within the meaning of the term as it is used in the Mann Act making an offense the transportation in interstate commerce of any woman or girl for the purpose of prostitution or debauchery, or for any other "immoral purpose." *Cleveland v United States*, 329 US 14, 91 L Ed 12, 67 S Ct 13.

See **debauchery and immoral purpose.**

**immortality of corporation.** One of the most important attributes of a corporation, as spoken of in the Dartmouth College Case. *Dartmouth College v Woodward (US)* 4 Wheat 518, 4 L Ed 629. Meaning only the capacity of continuous succession during the time of the existence of the corporation, whether that is definite or indefinite. 18 Am J2d Corp § 94.

**immovable property.** Real property and some things attached to realty but not in the nature of freehold and constituting personalty rather than realty. 42 Am J1st Prop § 24. Land and chattels real. *Sneed v Ewing*, 28 Ky (5 JJ Marsh) 460.

**immovables.** Immovable property.

**immunity.** A personal favor granted by law, contrary to the general rule. *Ex parte Levy*, 43 Ark 42. A privilege or special privilege; a favor granted; an affirmative act of selection of special subjects of favors not enjoyed in general by citizens under constitution, statute, or laws. *Hammer v State*, 173 Ind 199, 89 NE 850. A right in the negative form of freedom from action or restraint which otherwise might be taken against or imposed upon a person, such as the right of a witness to be free from arrest while attending court.

See **exemption; privilege; privileges and immunities; waiver of immunity.**

**immunity bath.** A person availing himself of the opportunity to give testimony which incriminates him in order to take advantage of statutory immunity granted a witness. 58 Am J1st Witn § 86.

**immunity clause.** A provision in a deed of trust securing corporate bonds which limits the trustee's liability, usually in providing that the trustee shall not be answerable for anything except his own gross negligence or wilful misconduct in the discharge of his duties. Anno: 57 ALR 470, s. 71 ALR 1414.

**immunity from arrest.** A privilege of narrow scope whereunder a few persons are rendered not subject to arrest on a criminal charge. 5 Am J2d Arr § 95. A privilege of broader scope whereunder a person of a certain class or performing a particular function at the time is rendered not subject to civil arrest, such privilege usually being applicable to mesne process as well as body executions. 5 Am J2d Arr § 95.

See **sanctuary.**

**immunity from liability.** An exemption from liability based on the nature of the defendant, such as a charitable corporate body; not nonliability under the application of tort law. Anno: 25 ALR2d 36. The rule that a judge is not civilly liable for acts done in the exercise of his judicial functions. 30A Am J Rev ed Judges § 73. The immunity of a public officer or administrative agency for discretionary, judicial, or quasi judicial acts. 2 Am J2d Admin L § 799; 43 Am J1st Pub Of § 274.

See **limitation of liability.**

**immunity from process.** The privilege of exemption from service of civil process of persons acting in certain capacities, or occupying a certain status, at the time, such as Congressmen, members of a legislature, and parties or witnesses in attendance at court. 42 Am J1st Proc §§ 135 et seq.

**immunity from suit.** The removal of certain persons or things from the exercise of jurisdiction for reasons of public policy. The established principle of jurisprudence, applicable in favor of the United States and a state, that the sovereign cannot be sued in its own courts, or in any other court, without its consent and permission. 49 Am J1st States § 91; 54 Am J1st US § 127.

There can be no legal right as against the authority that makes the law on which the right depends. A sovereign is exempt from suit, not because of any formal conception of obsolete theory, but on this logical and practical ground. *Holmes, J., in Kawanakoa v Polybank*, 205 US 349, 51 L Ed 834, 27 S Ct 526.

Such immunity is a high attribute of sovereignty –a prerogative of the state itself –which cannot be availed of by public agents when sued for their own torts. The Eleventh Amendment to the Federal Constitution was not intended to afford them freedom from liability in any case where, under color of their office, they have injured one of the state's citizens. To grant them such an immunity would be to create a privileged class free from liability for wrongs inflicted or injuries threatened. *Public agents must be liable to the law, unless they are to be put above the law. Old Colony Trust Co. v Seattle*, 271 US 426, 431, 70 L Ed 1019, 1022, 46 S Ct 552.

**immunity of witness.** See **immunity from process; immunity provisions; judicial immunity of witness; self-incrimination.**

**immunity provisions.** Constitutional and statutory provisions intended to render available testimony from a witness, who otherwise would remain silent under the privilege against self-incrimination, by granting him immunity from prosecution. 21 Am J2d Crim L § 148.

See **immunity bath.**

**immurement.** Imprisonment; incarceration.

**impair.** To make worse; to diminish in quality, value, excellence, or strength; to deteriorate. *Swinburne v Mills*, 17 Wash 611, 50 P 489.

**impairment of capital.** A deficiency in the capital of a bank, but not necessarily a condition of insolvency. 10 Am J2d Bks § 41. Distribution reducing capital of corporation. 19 Am J2d Corp § 819.

**impairment of earning ability.** Decrease in earning capacity. 22 Am J2d Damg § 89.

**impairment of justice.** See **obstruction of justice.**

**impairment of memory.** Forgetfulness. A condition of the mind in which recollection of past events becomes difficult, if not impossible. 27 Am J2d Eq § 170.

**impairment of mind.** Mental weakness or incompetency.

**impairment of obligation of contract.** Within the meaning of the constitutional provision, known as the contract clause appearing in Article 1, Section 10, of the United States Constitution: the effect of a statute enacted subsequently to the making of a contract which annuls it or changes its terms by adding or releasing material conditions, provisions,

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or stipulations or which changes the remedy for a breach, so that the new remedy is not substantially the equivalent of the old one, thereby lessening the value of the agreement. 16 Am J2d Const L §§ 444 et seq.

In determining whether state legislation unconstitutionally impairs contract obligations, no unchanging yardstick can be fashioned, applicable at all times and under all circumstances, by which the validity of every statute may be measured; each case must be determined upon its own circumstances. *Re People (Title and Mortgage Guaranty Co.)* 264 NY 69, 190 NE 153, 96 ALR 297.

**impairment of vested rights.** See **retrospective legislation.**

**impalare.** To impound.

**impalement.** An inclosure. The execution of the death penalty, as in ancient times, by thrusting a stake through the body.

**impanel.** To place the names of the jurors on a panel; to make a list of the names of those persons who have been selected for jury duty; to go through the process of selecting a jury which is to try the cause. 31 Am J Rev ed Jur § 129.

**impanelment of jury.** See **impanel; panel.**

**imparcare.** To impound; to imprison.

**impargamentum.** An impounding; the right to impound.

**imparl.** To discuss a controversy in an effort to effect an amicable settlement after action pending. See 3 Bl Comm 299.

**imparlance.** A discussion between the parties to a pending action in an effort to effect an amicable settlement of the controversy. See 3 Bl Comm 299.

**imparsonee.** Inducted into and placed in possession of a benefice; the clergyman who has been thus inducted and placed.

**impartial.** Being indifferent as between parties. *Sunderland v United States* (CA8 Neb) 19 F2d 202.

**impartial hearing.** A fair and open hearing, without bias or prejudice; indifferent as between the parties. 2 Am J2d Admin L § 412.

**impartiality.** Absence of bias or prejudice. Indifference as between the parties.

**impartial juror.** A juror who will render an impartial verdict on the evidence. *International News Service v News Publishing Co.* 118 Okla 113, 247 P 87.

**impartial trial.** See **fair and impartial trial.**

**impartible fee.** Same as **impartible feud.**

**impartible feud.** A feud or fee which was so conditioned in its creation that it could only descend to the eldest son. See 2 Bl Comm 215.

**impatronization.** The induction of a parson or clergyman into a benefice and vesting him with the possession of it.

**impeach.** To effect an impeachment.

See **impeachment.**

**impeachable for waste.** A phrase indicating the liability of the life tenant for waste as to conduct in encroaching upon the corpus of the estate. 33 Am J1st Life Est §§ 313 et seq. Also indicating the liability of a tenant under a lease for years for waste. 32 Am J1st L & T §§ 779 et seq.

See **without impeachment of waste.**

**impeachment.** The act of discrediting a person or a thing. Calling the integrity or ability of a person into question. The imputation of fault or of defective performance, particularly that of a public officer. *Shanks v Julian*, 213 Ky 291, 303, 280 SW 1081, 1085. Showing imperfection or error, for example, attacking the certified record on appeal by comparing it with the transcript. 4 Am J2d A & E § 503. Questioning the authenticity of a document or the veracity of a witness.

To impeach, as applied to a person, is to accuse, to blame, to censure him. It includes the imputation of wrongdoing. To impeach his official report or conduct is to show that it was occasioned by some partiality, bias, prejudice, inattention to, or unfaithfulness in, the discharge of that duty; or, that it was based upon such error that the existence of such influences may be justly inferred from the extraordinary character or grossness of that error. *Bryant v Glidden*, 36 Me 36, 47.

**impeachment court.** A court for the trial of an impeached officer. 20 Am J2d Cts § 34. The upper house of a legislative body. 20 Am J2d Cts § 34.

In the impeachment of an officer of the United States, the accusation is made by the House of Representatives, and tried by the Senate, under section 3 of article I of the United States Constitution. In some of the states the same procedure is followed. In other states, the legislature has relegated impeachment cases to the courts. Re John J. Marks, 45 Cal 199.

**impeachment of account.** Questioning correctness of an account. 1 Am J2d Accts § 35.

**impeachment of acknowledgment.** Disproving the facts stated in the certificate. 1 Am J2d Ack § 98.

**impeachment of award.** A proceeding at law or in equity for the setting aside of an arbitration award which is void or where cause for setting it aside may be shown. 5 Am J2d Arb & A § 167.

**impeachment of public officer.** Seeking the removal of a public officer upon charges, formally made, of the commission of a crime or of official misconduct or neglect. Technically, the adoption of articles of impeachment upon inquiry by the lower house of Congress or the legislature, the filing of such articles with, and their acceptance by, the United States Senate in the case of a federal officer, or the upper house of the legislature or court of impeachment in the case of a state officer. 43 Am J1st Pub Of §§ 175, 178.

**impeachment of title or right to office.** An action to determine the title or right of a judge to the office. 30A Am J Rev ed Judges § 235.

**impeachment of verdict.** An attack against a verdict based upon grounds concerning the deliberations of the jury and the manner of arriving at a verdict. 53 Am J1st Trial §§ 1105 et seq.

**impeachment of waste.** See **impeachable for waste.**

**impeachment of witness.** An attack on the credibility of a witness by the testimony of other witnesses that the facts about which he has testified are other than as he has stated; by proof that his general reputation is bad; by proof that he has previously made contradictory or inconsistent statements, or by proof of his bias, interest, or hostility. Harris v Tippett, 11 Eng Rul Cas 144. Any means through proof of impairing the credit of the witness, involving matters affecting the general credit of a witness

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as well as those affecting his credit in the particular case. 58 Am J1st Witn §§ 674 et seq.

**impechiare.** To impeach.

**impediens.** A person who impedes or hinders; a person who withholds land from the true owner; a defendant.

**impediment.** An obstruction, for example, an obstruction in a highway. 25 Am J1st High § 272. A bar; a disqualification, for example, insanity barring marriage. 35 Am J1st Mar § 17.

See **canonical impediments; dirimant impediments; impediments to marriage; legal impediment; manifest impediment.**

**impedimento.** (Spanish.) An impediment or bar to matrimony.

**impediments to marriage.** Disqualifications, such as nonage, mental incapacity, etc.

See **prohibitive impediments; relative impediment.**

**impeditor.** A person who interferes with the right of a patron to make presentation to a benefice.

**impensae.** (Civil law.) Expenses; moneys spent or laid out for expenses.

**imperative.** Mandatory; commanding.

**imperative direction.** An essential of equitable conversion; an expression in some form of an absolute intention that a conversion shall be effected, that is, that land shall be sold and turned into money, or that money shall be expended in the purchase of land. 27 Am J2d Eq Conv § 4.

**imperative power.** A power in trust. The essential distinction between a power of appointment and a trust, the former being discretionary, the latter imperative. 41 Am J1st Pow § 3.

**imperative statute.** A mandatory statute; that is, one which plainly commands something to be done or refrained from, as distinguished from a statute which is merely directory and hence leaves a choice between doing or not.

**imperative words.** Words of command rather than precatory words.

When in a will words of recommendation, request, and the like are used in direct reference to the testator's estate, they are prima facie testamentary and imperative and not precatory. While the desire of a testator for the disposal of his estate is a mere request when addressed to his devisee, it is to be construed as a command when addressed to his executor. All expressions indicative of his wish or will are commands. Estate of Tooley, 170 Cal 164, 149 P 574.

**imperator.** Emperor,—a title frequently appended to the name of the king of England in charters which were granted before the time of the Norman Conquest. See 1 Bl Comm 242.

**Imperator solus et conditor et interpres legis existimatur.** The emperor alone is deemed to be both the founder and the interpreter of the law. 1 Bl Comm 74.

**imperceptible process.** In reference to the rule of accretion:—imperceptibility in progress, notwithstanding perceptibility after a long lapse of time. 56 Am J1st Wat § 484.

**imperfect.** Incomplete; lacking in some essential; defective.

**imperfect delegation.** A substitution of a new debtor for an old one without releasing the old one.

**imperfect gift.** A gift incomplete because of the omission of act or circumstance which the law requires as necessary to pass title. 24 Am J1st Gifts § 43.

**imperfect mortgage.** A mortgage good in equity, although not at law. Another term for vendor's lien. Gessner v Palmater, 89 Cal 89, 26 P 789.

**imperfect obligation.** An obligation not enforceable by suit, depending for fulfillment upon the will and conscience of the obligor. Edwards v Kearzey, 96 US 595, 24 L Ed 793.

**imperfect right.** A right which is not a full or perfect right because he who would enjoy it has been guilty of some wrong, fault, or blame in the matter out of which the right accrued; as where a man sets up the plea of self-defense when he was the original aggressor. Wallace v United States, 162 US 466, 40 L Ed 1039, 16 S Ct 859.

**imperfect sexual intercourse.** See **sexual intercourse**.

**imperfect trust.** A trust, the legal effect of which has not been achieved or, if achieved, is not complete and final in its limitations. 54 Am J1st Trusts § 7.

**imperfect war.** A war not formally declared and limited as to places, persons, and things, but nevertheless an external contention by force between members of the two nations, authorized by the legitimate powers. 56 Am J1st War § 4.

**imperial parliament.** A name once used for the parliament of England.

**Imperil majestas est tutelae salus.** The majesty of the empire is the safety of its protection.

**imperite.** Unskillfully; without skill.

**imperitia.** Unskillfulness; lack of skill.

**Imperitia culpa adnumeratur.** Unskillfulness is rated as negligence.

**Imperitia est maxima mechanicorum poena.** Lack of skill is the greatest sin of mechanics.

**imperium.** Rule; power; authority. The power vested in a Roman magistrate to command the citizen to the end of preserving order in time of peace and discipline in time of war.

**imperium in imperio.** A government within a government.

**impersonal.** Without reference to any person.

**impersonalitas.** Impersonality; the quality of referring to no person.

**Impersonalitas non concludit nec ligat.** Impersonality neither concludes nor binds.

**impersonal payee.** A payee of a bill or note designated as "cash," "bills payable or order," or otherwise than in the name of a person, association, partnership, or corporation, the consequence being that the instrument is payable to bearer. 11 Am J2d B & N § 124.

**impersonal trademark or trade name.** A trademark or trade name not of a character representing in itself a personal element in the production of the article but which may be associated with kind and quality so as to identify the article. 52 Am J1st Tradem §§ 47 et seq.

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**impersonation.** Assuming the name and identity of another person. 11 Am J2d B & N § 132. A means of committing a fraud. 27 Am J2d Fraud § 28. Representing oneself as another person, such constituting the offense of false pretenses, when done for the purpose of defrauding another. 32 Am J2d False Pret § 18. Assuming the character or personality of another, for example assuming the personality of another for the purpose of voting in his name at election. 26 Am J2d Elect § 375.



**impertinence.** Rudeness; insolence. Matter in a complaint, bill, answer or other pleading not properly before the court for decision at any stage of the suit (27 Am J2d Eq §§ 187, 198, 201) particularly, scandalous allegations. 27 Am J2d Eq 187; 41 Am J1st Plead § 351.

**impertinent matter.** See **impertinence.**

**impescare.** Same as **impeach.**

**impetere.** To impeach.

**impetitio vasti.** Same as **impeachment of waste.**

**impetrare.** To obtain by asking.

**impetration.** The obtaining of a thing by request or petition.

**impie.** (French.) Reprobate. Infidel.

**impier.** An arbiter; an umpire.

**impierment.** Impairment.

**impignorata.** Pledged; mortgaged.

**impignoration.** A pledge; a mortgage; pledging or mortgaging property.

**Impius et crudelis judicandus est qui libertati non favet.** He should be adjudged impious and cruel who does not favor liberty.

**implacitare.** Same as **implead.**

**implead.** To sue; to make a person a party to an action or suit. To bring into an action as a party a person not named as a party in the action as originally instituted.

**impleader.** Broadly, the joining of a person as a party to an action. As known under modern code or rules practice, the bringing into an action as a party of a person liable over to or liable with the defendant. 39 Am J1st Parties § 90. The bringing into an action of either a person or a thing, whether wholly or in part liable or liable only by way of remedy over or contribution. 2 Am J2d Adm § 151.

See **third-party practice.**

**implement.** Noun: A tool, instrument, utensil, or machine for carrying on work, particularly a machine for agricultural work. A thing necessary to a trade and without which the work cannot be performed. Anno: 2 ALR 818. As used in an exemption statute:—a usable article, an instrument employed as a means to effect an end in debtor's trade or occupation. 31 Am J2d Exemp § 51. Verb: To put into effect; to provide with means for accomplishing a purpose.

As used in a statute with reference to the power of the board of county supervisors to purchase or hire "implements" and material and employ labor in connection with the reconstruction or repair of highways, the term embraces such road machines as tractors, graders, etc., especially where the statute expressly provides that the board may do any and all things

necessary to be done to construct, reconstruct, and maintain the public roads. *Mississippi Road Supply Co. v Hester*, 185 Miss 839, 188 So 281, 124 ALR 574.

**implements of husbandry.** Farm implements. As something exempt from a statutory requirement of registration of motor vehicles, a vehicle designed and used primarily as a farm vehicle but which may be operated or moved temporarily upon the highway. *Allred v J. C. Engelman*, 123 Tex 205, 61 SW2d 75, 91 ALR 417.

A statutory definition of an "implement of husbandry" as a "vehicle which is designed for agricultural purposes and exclusively used by the owner thereof in the conduct of his agricultural operations" includes a grain combine being hauled on the highway by a tractor, so as to bring such combine within the statutory exception of "implements of husbandry temporarily moved upon a highway" from restrictions as to width of vehicles on the highway, although at the time of the accident the combine was being hauled by its owner, a farmer, to the farm of another, some eighteen miles away, to be used by the owner in combining soybeans for a fixed fee. *Worthington v McDonald*, 246 Iowa 466, 68 NW2d 89, 47 ALR2d 135.

Any instrument used directly in the business of farming, and for no other purpose is an implement of husbandry. Horse rakes, gang plows, headers, threshing machines, and combined harvesters are as clearly implements of husbandry as are hand rakes, single plows, sickles, cradles, flails, or an old fashioned machine for winnowing. There is no ground for excluding an implement from the operation of the exemption statute because it is an improvement and supplants a former implement used with less effectiveness for the same purpose. *Estate of Klemp*, 119 Cal 41, 50 P 1062.

**implication.** Something implied. The evident consequence, or some necessary consequence resulting from the law, or the words of an instrument, in the construction of which the words, the subject, the context, the intention of the person using them, are all to be taken into view. *Rhode Island v Massachusetts (US)* 12 Pet 657, 723, 9 L Ed 1233, 1260. The matter of being involved, as in a crime.

See **implied**.

**implied.** Accepted as that which was intended although not stated expressly. Understood. Suggested.

**implied abandonment.** In some jurisdictions, the nonuser of a highway. 25 Am J1st High § 112.

**implied abrogation.** See **implied repeal**.

**implied acceptance.** An acceptance understood from acts and circumstances where not expressly stated. The acceptance of an offer implied from acts or conduct, including performance by the offeree of his undertaking. *Cole-McIntyre-Norfleet Co. v Holloway*, 141 Tenn 679, 214 SW 817, 7 ALR 1683. *Duquesne Lumber Co. v Keystone Mfg. Co.* 90 W Va 673, 112 SE 219. An acceptance of an offer of dedication through positive conduct on the part of the authorized public officers evincing their consent on behalf of the public. *Blowing Rock v Gregorie*, 243 NC 364, 90 SE2d 898; *Henry v Ionic Petroleum Co. (Okla)* 391 P2d 792. An acceptance of a deed implied where the intention to accept is manifested by conduct such as that of retaining possession of the deed, conveying the property, or otherwise exercising the rights of an owner, provided the grantee had, at the time he acted, knowledge of the conveyance. 23 Am J2d Deeds § 128. The acceptance of a gift operating entirely to the

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benefit of the donee. 24 Am J1st Gifts § 117. Of a draft or bill of exchange: –an acceptance by the drawee implied from circumstances such as his retention or destruction of the instrument, 11 Am J2d B & N § 509; a concept at variance with the provision of the Uniform Commercial Code that the signed engagement of the acceptor must be written on the bill or draft. 11 Am J2d B & N § 510.

**implied accord.** The usual situation of accord in which a sum less than the whole claim is remitted or tendered on condition that it be accepted as full satisfaction, and accord and satisfaction resulting from its acceptance. *Shinn v Kitchens*, 208 Ark 321, 186 SW2d 168; *Virginia-Carolina Electrical Works, Inc. v Cooper*, 192 Va 78, 63 SE2d 717.

**implied actual notice.** See **implied notice.**

**implied admission.** An admission by act, conduct, or silence. 29 Am J2d Ev § 623.

**implied agency.** An actual agency, the existence of which as a fact is proved by deductions or inferences from the other facts and circumstances of the particular case, including the words and conduct of the parties. *Turnbull v Shelton*, 47 Wash 2d 70, 286 P2d 676.

**implied assignment.** An assignment by operation of law, for example, the passing of a decedent's personal assets to the executor or administrator of his estate. 6 Am J2d Assign § 2.

**implied assumpsit.** General assumpsit or indebitatus assumpsit. 1 Am J2d Actions § 11.

**implied authority.** The actual authority of an agent, circumstantially proved, which the principal is deemed to have actually intended the agent to possess; authority of an agent arising independently of any express grant of authority, as from some manifestation by the principal that the particular authority in question shall exist in the agent, or arising as a necessary or reasonable implication in order to effectuate other authority expressly conferred, embracing authority to do whatever acts are incidental to, or are necessary, usual, and proper to accomplish or perform the main authority expressly delegated to the agent. Annotation: 55 ALR2d 27, § 4[a]; 3 Am J2d Agency § 71.

See **implied powers.**

**implied banker's lien.** A lien of a bank for the balance owing upon a general account upon the securities of the customer or depositor in the possession of the bank, implied from the usages of the banking business or the law merchant. 10 Am J2d Banks § 660.

**implied bequest or devise.** A bequest or devise inferred from expressions in a will raised for the purpose of carrying out what the testator appears on the whole to have really meant, but failed to express as distinctly as he should have done. *O'Hearn v O'Hearn*, 114 Wis 428, 90 NW 450.

**implied bias.** Presumed bias; bias which is supposed to exist on account of the relation which the juror bears either to the cause or to some of the parties thereto. 31 Am J Rev ed Jury § 171.

**implied coercion.** Existing where a person is induced to do an act contrary to his will in consequence of his legal subjection to another. *Fluharty v Fluharty*, 38 Del 487, 193 A 838.

**implied condition.** A condition which is not expressed but which is either implied by the law or by the common intention of the parties. As applied to estates in real property, a condition otherwise known as a condition in law, a condition which the law implies either from its being always understood to be annexed to certain estates, or as annexed to estates held under certain circumstances. *Raley & Johns v Umatilla County*, 15 Or 172, 13 P 890.

See **estate upon condition.**

**implied confession.** Admissions by the accused from which guilt may be inferred, whether by words, acts, or, in some instances silence. See 29 Am J2d Ev § 523. A confession which is implied by law where a defendant, in a criminal case not capital, does not directly own himself guilty, but in a manner admits it by yielding to the state's mercy, and desiring to submit to a small fine. *Commonwealth v Shrope*, 264 Pa 246, 107 A 729, 6 ALR 690, 692.

**implied consent.** Acquiescence. By the prosecutrix in a prosecution for rape:—conduct of such nature as to create in the mind of the accused an honest and reasonable belief of free submission to the carnal act, 44 Am J1st Rape § 12; failure to oppose the carnal act when one is awake, of mature years, of sound mind, and not in fear. 44 Am J1st Rape § 12.

**implied consideration.** The consideration for an act performed or forbore at the request of another without an express stipulation as to compensation or other consideration. Bixler v Ream (Pa) 3 Penr & W 282, 284.

**implied constitutional provision.** A condition implied in a constitution, whether the Constitution of the United States or a state constitution, because deemed within the meaning and intention of the constitution on judicial inspection thereof. 16 Am J2d Const L § 72.

**implied contract.** A contract inferred from the conduct of the parties, although not expressed in words. Corriveau v Jenkins Bros. 144 Conn 383, 132 A2d 67. Implied in fact:—a real contract but one inferred from the circumstances, the conduct, acts, or relation of the parties, rather than from their spoken words, Gleason v Salt Lake City, 94 Utah 1, 74 P2d 1225. A contract to pay the reasonable value of services performed by one person for another, where there is no express agreement as to the compensation, but the circumstances, particularly the conduct of the person for whom the work was done, is such as to justify an understanding by the person performing the work that the former intended to pay for it. Anno: 54 ALR 549; 58 Am J1st Wk & L § 3. Implied in law:—a quasi or constructive contract implied by law on the grounds of justice and equity, usually to prevent unjust enrichment. 58 Am J1st Wk & L § 2.

**implied contract of sale.** A contract for the sale of goods implied from the facts and circumstances of the case creating an obligation on the part of the buyer to pay for goods received from another. Ordinarily when one person receives goods or merchandise from another, the law implies a contract on his part to pay therefor, which will support an action for goods sold and delivered. 46 Am J1st Sales § 37.

**implied covenant.** A covenant in law; a covenant which may reasonably be inferred from the whole agreement and the circumstances attending its execution. 20 Am J2d Cov § 12. Such a covenant as the law will imply from the making of a lease or from the use of certain words in the lease; a covenant of quiet enjoyment free from any interference with the lessee's occupation of the premises by the

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lessor and a covenant of good title and right to make the lease on the part of the lessor. 32 Am J1st L & T § 143.

The theory of estoppel by deed under which an after-acquired title passes to the grantee. 23 Am J2d Deeds § 294. The theory upon which a dedication occurs from the sale of land with reference to a map or plat. 23 Am J2d Ded § 25.

**implied dedication.** An acquiescence by the owner of land in a public use thereof; acts or conduct of the owner of land manifesting an intent to devote the property to public use. 23 Am J2d Ded § 1.

**implied delivery.** A constructive delivery to bailee, meaning all those acts which, although not truly comprising real possession of the goods transferred, have been held, by legal construction, equivalent to actual delivery, including, in this sense, symbolical or substituted delivery. 8 Am J2d Bailm § 55.

**implied devise.** See **implied bequest or devise.**

**implied easement.** An easement by implication in favor of a grantor or grantee, being a creature of the common law, existing only in connection with a conveyance, and based on the theory that whenever one conveys land adjacent to land owned and retained by him, he includes or intends to include in the conveyance whatever is necessary for its beneficial use and enjoyment

and to retain whatever is necessary for the use and enjoyment of the land retained. *Trattar v Rausch*, 154 Ohio St 286, 43 Ohio Ops 186, 95 NE2d 685.

To create an easement by implication there must be (1) a separation of title; (2) a use, before the separation, so long continued, obvious, and manifest as to show the use was meant to be permanent; and (3) a use essential to the beneficial enjoyment of the land granted or retained. *Kling v Ghilarducci*, 3 Ill 2d 454, 121 NE2d 752, 46 ALR2d 1189.

**implied election.** An election to take under or against a will implied from the acts or conduct of the beneficiary on whom the election evolves, or, as it is occasionally stated, evidenced by matters in pais. 57 Am J1st Wills § 1534.

**implied emancipation.** That emancipation of a child which results when the parent without any express agreement, impliedly consents by his acts and conduct that the child may have his own time and the control of his earnings, or such consent is inferred from or shown by circumstances. 39 Am J1st P & C § 64.

**implied exception.** An exception of a right or easement from the grant made by an absolute conveyance in fee where such right or easement is essential to the enjoyment of land remaining in the grantor's ownership. 23 Am J2d Deeds § 270.

**implied finding.** A negative finding implied where the findings by the trial court leave some issue or material fact undetermined, the implication being that such issue or fact was not proved by the party having the burden of proof thereon. 53 Am J1st Trial § 1143. An anomaly in an administrative proceeding where express findings are required as a matter of procedural law. 2 Am J2d Admin L § 449.

**implied force.** The employment of words or conduct to put another in fear of bodily harm if he does not give way or submit. See 35 Am J2d Forc E & D § 58.

**implied franchise.** A franchise to use the streets, for the purpose of rendering service as a public utility, conferred by necessary implication from the negotiations between the city and the company claiming the franchise. *Eichels v Evansville St. R. Co.* 78 Ind 261.

**implied illegality.** That which, although neither expressly forbidden nor authorized, is contrary to the plain implication of a statute. *Luria v United States*, 231 US 9, 58 L Ed 101, 34 S Ct 10.

**implied in fact.** See **implied contract**.

**implied in law.** See **implied contract**.

**implied intent.** A guilty intention inferable from the act relied upon by the prosecution as constituting the offense. 21 Am J2d Crim L § 81.

**implied invitation.** An act of the owner or occupant of premises, or of someone else with his permission, which he knows, or reasonably should know, may give rise to the belief, in a mind of a person ordinarily discerning, that the owner or occupant intended such person to come upon the premises. *Black v Central R. Co.* 85 NJL 197, 89 A 24.

In its real value and significance, as derived from its application in the adjudged cases, the term imports knowledge by the defendant of the probable use by the plaintiff of the defendant's property so situated and conditioned as to be open to, and likely to be subjected to such use. *Lepnick v Caddis*, 72 Miss 200, 16 So 213.

See **implied license**.

**implied lease.** The relation of landlord and tenant existing under an implied contract, that is, a relation from the acts and conduct of the parties consistent only with the existence of a lease and the creation of the relation of landlord and tenant thereunder. 32 Am J1st L & T § 24.

**implied license.** A license to perform an act or acts upon the land of another existing by virtue of acquiescence of the owner or inferred from the acts of the parties, their relations with each other, from custom, or from the habits of the country, but giving the licensee no interest in the land. *McKee v Gratz*, 200 US 127, 67 L Ed 167, 43 S Ct 16 (license to go upon land for purpose of hunting or fishing).

The principle on which an implied license may be distinguished from an implied invitation is that where the privilege of user exists for the common interest or mutual advantage of both parties, it will be held to be an invitation; but if it exists for the mere pleasure and benefit of the party exercising the privilege, it will be held to be a license. *Douglas v Bergland*, 216 Mich 380, 185 NW 819, 20 ALR 197.

**implied lien.** A lien which may be created in the absence of an express contract, based upon the fundamental maxims of equity and which may be implied and declared by a court of equity out of general considerations of right and justice as applied to the relations of the parties and the circumstances of their dealings. 33 Am J1st Liens § 21. The lien in favor of a vendor who has conveyed the legal title to real estate to a purchaser, as security for the unpaid purchase money. 55 Am J1st V & P § 462.

**implied malice.** An expression of dual meaning, sometimes being used in the sense of constructive malice and at other times indicating presumed malice. The mental state of ill will, spite, wicked intention, or enmity which the law infers from or imputes to certain acts. *Griswold v Horne*, 19 Ariz 56, 165 P 318. The inference or implication from

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a wilful and intentional act performed for the accomplishment of a wrongful object or ulterior purpose. 1 Am J2d Abuse P § 6. An application of the presumption that one intends the natural and probable consequences of his voluntary and deliberate acts. *Taylor v State*, 201 Ind 241, 167 NE 133. As an element of the crime of murder:—the absence of a deliberate mind and formed design to take life, but where the killing, nevertheless, is done without justification or excuse, and without provocation, or without sufficient provocation to reduce the offense to manslaughter. *State v Trott*, 190 NC 674, 130 SE 627, 42 ALR 1214. The showing of an abandoned or malignant heart by all the circumstances. *People v Crenshaw*, 298 Ill 412, 131 NE 576, 15 ALR 671.

It is a matter of the greatest difficulty to distinguish between express malice and implied malice so as to render those terms intelligible to a jury. *Turner v Commonwealth*, 167 Ky 365, 180 SW 768.

**implied notice.** A kind of actual notice rather than constructive notice; sometimes referred to as implied actual notice. 39 Am J1st Notice § 6. Notice inferred from the means of knowledge open to a person, without proof that he used them. *Texas Co. v Aycocck*, 190 Tenn 16, 227 SW2d 41, 17 ALR2d 322. Sometimes confused with "constructive notice" which is a matter of legal inference rather than actual notice. 39 Am J1st Notice § 6. *Hunt v Ellis*, 27 NM 397, 201 P 1064.

**implied obligation.** See **implied contract**.

**implied permission.** See **implied license**; **implied permission to use motor vehicle**.

**implied permission to use motor vehicle.** A sufferance of use or passive permission deduced from a failure to object to a known past, present or intended future use under circumstances where the use should be anticipated. *Bradford v Sargent*, 135 Cal App 324, 27 P2d 93.

**implied powers.** The powers necessary to effectuate the powers expressly conferred. *Re Munger*, 168 Iowa 372, 150 NW 447 (powers of executor or administrator). Sometimes in loose usage referred to as inherent powers. *Re Berman*, 245 NC 612,

97 SE2d 232. The powers of a public officer which, although incidental and collateral, are germane to, or serve to promote or benefit, the accomplishment of the principal purposes of the office. *Moore v Nation*, 80 Kan 672, 103 P 107. Federal powers under an implied grant in the United States Constitution. 16 Am J2d Const L § 199. The powers of a corporation to effectuate the powers expressly granted and to accomplish the purposes for which the corporation was formed, except as the particular act is prohibited by law or by the charter. 19 Am J2d Corp § 953.

The implied powers which a corporation has in order to carry into effect those expressly granted and to accomplish the purposes of the creation of the corporation are not limited to such as are indispensable for these purposes, but comprise all that are necessary, in the sense of appropriate and suitable, including the right of reasonable choice of means to be employed. 19 Am J2d Corp § 953.

See **implied authority**.

**implied publication.** The communication by the testator to the attesting witnesses by word, sign, motion, or conduct, his intent that the instrument take effect as his will. 57 Am J1st Wills § 283.

**implied ratification.** An inference from a course of conduct, lapse of time, or acquiescence, indicating an intention to approve, confirm, and adopt something which in the first instance he might have successfully avoided. *Peter v Irwin*, 69 W Va 200, 71 SE 115. Recognizing the validity of a transaction, or remaining silent when called upon to speak, whereby others have been injured. Anno: 48 ALR 425, 54 ALR 1246. Of contract:-accepting the benefits growing out of it or remaining silent or acquiescing in a contract for any considerable length of time after opportunity is afforded to avoid it or have it annulled, or recognizing the validity of the contract by acting upon it. 25 Am J2d Dur § 28. An election, definitely manifested, by one, after reaching majority, to let a contract made by him while an infant stand in force. *Hermenu v Zazzarino*, 108 NJ Eq 451, 155 A 459. Of act or transaction by agent:-any act, words, or course of conduct on the part of the principal which reasonably tends to show an intention on his part to ratify the unauthorized acts or transactions of the alleged agent. 3 Am J2d Agency § 162. The ratification of an agent's acts by accepting the benefits thereof or failing to repudiate the acts after notice that the agent has exceeded his authority. *Howell v Grocers Inc.* (CA6 Mich) 2 F2d 499.

An alteration of an instrument is ratified where the obligor under the instrument, with knowledge of the alteration, agrees to pay the amount of the instrument as altered, renews the instrument, or accepts and retains benefits under the instrument with knowledge that it has been altered. 4 Am J2d Alt Inst § 67.

**implied rejection.** A rejection of an offer of dedication by acts of the authorized public officers indicating an intention to reject. *Ramstad v Carr*, 31 ND 504, 154 NW 195.

**implied remainder.** A remainder created by implication according to the intention of the testator or grantor, as where a remainder is deemed to have been devised by words of gift directing a payment or distribution in the future. 33 Am J1st Life Est § 62.

**implied repeal.** The superseding of a rule of the common law, without an express directive to that effect, as by adoption of a statute dealing comprehensively with the subject to which the common law rule relates. *Banko v Weber*, 9 App Div 2d 720, 192 NYS2d 260, affd 7 NY2d 758, 193 NYS2d 670, 162 NE2d 750. The repeal of a statute by a later statute, in the absence of an express repeal by the later statute, where there is such a positive repugnancy between the provisions of the old and the new statutes that they cannot stand together or be harmonized. *Pacific Milling Elevator Co. v Portland*, 65 Or 349, 133 P 72. The repeal of a statute by the adoption of an amendment to the constitution which is inconsistent with and repugnant to the provisions of the statute. 16 Am J2d Const L § 49. The repeal of a provision of a constitution by the adoption of an amendment to the constitution which is inconsistent with such provision. 16 Am J2d Const L § 27.

A portion of a statute may also be repealed by implication, as where it is in conflict with a provision of a later statute. *State v Atlantic Coast Line R. Co.* 56 Fla 617, 47 So 969.

**implied representation.** A representation made, not directly by words, but indirectly by words, acts, or conduct from which the representation of a fact may be implied. See 32 Am J2d False Pret § 17. A

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conclusion which, while not expressed directly in a statement, is one clearly to be drawn from the statement. 29 Am J Rev ed Ins § 698.

**implied rescission.** A rescission of a contract which the law implies when the parties make a new contract concerning the same matter with terms so inconsistent with the terms of the former contract that they cannot stand together. 17 Am J2d Contr § 493. A rescission of a contract by acts or conduct of the parties inconsistent with the continued existence of the contract. 17 Am J2d Contr § 494.

**implied reservation.** A reservation of a right or easement from the grant made by an absolute conveyance in fee where such right or easement is essential to the enjoyment of land remaining in the grantor's ownership. 23 Am J2d Deeds § 270.

**implied review.** A constitutional right of review of an administrative determination. State ex rel. Watson v Lee, 157 Fla 62, 24 So 2d 798, 163 ALR 862.

**implied revocation of will.** A revocation by operation of law consequent to certain important changes in the family or domestic relations of the testator, such as marriage or the birth of a child after the making of the will, or changes involving the property of the testator or the beneficiaries of the will. 57 Am J1st Wills §§ 521 et seq. The revocation of a will by a later will or codicil which is inconsistent with the prior will, 57 Am J1st Wills § 474; a question of the intention of the testator as such appears from the general tenor and structure of the later will and the nature and character of the provisions contained therein. Kearns v Roush, 106 W Va 663, 146 SE 729.

**implied tenancy.** See **implied lease; implied tenancy at will.**

**implied tenancy at will.** The tenancy of one who enters on land by permission of the owner for an indefinite period without the reservation of any rent. 32 Am J1st L & T § 66.

**implied trust.** A trust which comes into existence through the application of intention to create a trust as a matter of law. A term also used for what is really a constructive trust, a trust by operation of law irrespective of and even contrary to the intention of him who is charged as trustee. 54 Am J1st Trusts § 5.

See **constructive trust.**

**implied use.** An implied trust.

See **implied license.**

**implied waiver.** A waiver shown by the acts and conduct of the parties from which an intention to waive reasonably may be inferred. 56 Am J1st Waiver § 17. A waiver implied as a reasonable inference from the act or silence of the party who has the power to waive. Roumage v Mechanics' Fire Ins. Co. 13 NJL 110. The waiver of notice of the taking of a deposition or of defects in such a notice by failure to object in writing. 23 Am J2d Dep § 37.

**implied warranty.** A statement, description, or undertaking by the insured under a marine policy which binds the insured as though expressed in the contract. Procacci v United States Fidelity Ins. Co. 118 NJL 423, 193 A 180. In sale of personal property:-a warranty by the seller of the quality or condition of the goods sold, imposed by operation of law, that is, a warranty inferred by law irrespective of any intention of the seller to create it, 46 Am J1st Sales § 332; a warranty of quality or condition implied from affirmations of the seller made without using technical words of warranty but with apparent intention to warrant,



such being a warranty implied in fact rather than a warranty implied in law. 46 Am J1st Sales § 332. The obligation of an indorser of a negotiable instrument, apart from statute. 11 Am J2d B & N § 610.

**import.** Verb: To bring or carry a substance or article into the country from outside. *Cunard S.S. Co. v Mellon*, 262 US 100, 67 L Ed 894, 43 S Ct 504, 27 ALR 1306 (intoxicating liquor.) Within the meaning of the law of customs duties, to bring an article into the country from the outside, usually but not necessarily through a custom house. *Pomplaim v United States* (CA5 La) 42 F2d 203, cert den 282 US 886, 75 L Ed 881, 51 S Ct 89, following *Cunard S.S. Co. v Mellon*, 262 US 100, 67 L Ed 894, 45 S Ct 504, 27 ALR 1306. For some purposes, to bring articles into a state from another state. 24 Am J1st Game § 18. Noun: A substance or article carried into the country from abroad; a shipment from a foreign country to the United States. *Faber v United States*, 221 US 649, 55 L Ed 897, 31 S Ct 659.

An "imported" article is an article brought or carried into this country from abroad. A steam yacht coming into a port of the United States under her own steam is not an imported article. *The Conqueror* (DC NY) 49 F 99, 102.

As the term is used in the tenth section of the first article of the Federal Constitution, declaring that "no state shall without the consent of Congress lay any imposts or duties on imports or exports," it refers to articles imported from foreign countries into the United States, and it does not refer to those articles which are carried from one state of the Union into a sister state. *Brown v Houston*, 114 US 622, 29 L Ed 257, 5 S Ct 1091.

Within the meaning of section 9 of article I of the United States Constitution providing that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, the word "migration" had exclusive reference to persons of the African race. The two words "migration" and "importation" refer to the different conditions of this race as regards freedom from slavery. When the free black man came here, he "migrated;" when the slave came, he was imported. The latter was property and could be taxed as an import. *People v Compagnie Generale Transatlantique (US)* 17 Otto 59, 27 L Ed 383, 2 S Ct 87.

**importation.** An import. The act of importing.

See **import**.

**import cost.** The price at which an article is freely offered for sale in the ordinary course of trade in the usual wholesale quantities for exportation to the United States, plus all necessary expenses of bringing it to the United States when these are not included in such price. 19 USC § 1332(e)(2).

**import duties.** See **customs duties**.

**imported.** See **import**.

**importer.** A person who brings goods and merchandise into the United States from a foreign country; the consignee of a shipment to the United States from a foreign country. *Meredith & Ellicott v United States* (US) 13 Pet 486, 493, 10 L Ed 258, 262. One bringing articles, particularly intoxicating liquors, into a state from another state. 30 Am J Rev ed Intox L § 129.

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**import-export clause.** Clause 2 of Section 10 of Article I of the Constitution of the United States which provides that no state shall, without the consent of Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws.

**imports.** See **import**.

**import taxes.** Taxes imposed on certain articles imported into the United States. 26 USC §§ 4521 et seq; 21 Am J2d Cust D § 1.

See **customs duties**.

**importunity.** Persistent solicitation; continued begging. Persistent request or entreaty. 47 Am J1st Seduc § 67. A form of undue influence. 25 Am J2d Dur § 36.

**impose.** To place a burden upon a person, for example, a tax. *Hertz v Woodman*, 218 US 205, 54 L Ed 1001, 30 S Ct 621.  
See **imposition; impost.**

**imposed duties.** Literally, duties, the burden of which is imposed upon a person. In a technical sense, those duties of a municipal corporation which are superadded to merely governmental functions, like the special private corporate duty to maintain streets in a safe condition for public travel, or 'the special, private corporate duty to maintain and manage corporate property so that city employees shall have safe places in which to work. *Edson v Olathe*, 81 Kan 328, 105 P 521.

**impositio.** Same as **imposition.**

**imposition.** Fraud, deception. Taking advantage of good nature to impose a burden. Any form of tax or enforced contribution to the public treasury. *State v Heppenheimer*, 58 NJL 633, 34 A 1061.

**impossibilis.** Same as **impossible.**

**impossibilitas facti.** The impossibility of doing a thing; that is, the inability of a person to perform an act, as distinguished from an act which in the nature of the thing is impossible. *Klauber v San Diego Street Car Co.* 95 Cal 353, 30 P 555.

**impossibilitas rei.** An impossibility in the nature of the thing, as distinguished from an inability of the person to do it. *Klauber v San Diego Street Car Co.* 95 Cal 353, 30 P 555.

**impossibility.** That which is impossible.

See **impossibility of performance; impossible; physical impossibility.**

**impossibility of performance.** Impossibility of accomplishment. Something beyond mere difficulty in performance. Impossibility having reference to the nature of the thing to be accomplished, not to the inability of the person. *Mineral Park Land Co. v Howard*, 172 Cal 289, 156 P 458. Original impossibility, an impossibility of performance existing when the contract was entered into, so that the contract was to do something which was from the outset impossible; supervening impossibility, that is impossibility from something developing after the inception of the contract. 17 Am J2d Contr § 404. No excuse for nonperformance of condition precedent to the vesting of an estate. 28 Am J2d Est § 158. A reason for extinguishment of condition subsequent whereby the estate vests free from the condition. 28 Am J2d Est § 158.

**impossibility of proof.** A fact, such as damages in certain peculiar cases, not susceptible of proof. 27 Am J2d Eq § 98. The impossibility of determination after the facts are in.

Whether or not any such impossibility of determination will exist is a question which properly should await the ascertainment of the facts. *Anniston Manufacturing Co. v Davis*, 301 US 337, 81 L Ed 1143, 57 S Ct 816.

**impossibility of relief.** A ground of jurisdiction in equity; the impossibility of evaluating damages in dollars and cents; damages not susceptible of proof. 27 Am J2d Eq § 98.

**Impossibilium nulla obligatio est.** There is no obligation to do the impossible.

The law never requires the doing of an impossible thing, though it often awards damages for a failure to perform express contract stipulations where performance was rendered impossible by reason of intervening overpowering causes other than act of God. *First Nat. Bank v McConnell*, 103 Minn 340, 114 NW 1129.

**impossible.** Not capable of accomplishment. For some purposes, not reasonably practical, as where a statute prohibits under penalty the parking of a motor vehicle upon the traveled portion of a highway, unless it is "impossible to avoid stopping and temporarily leaving the vehicle" in such position. 7 Am J2d Auto § 235.

See **impossibility of performance.**

**impossible condition.** A condition precedent or subsequent in a contract which, at the time when the contract is entered into, purports to bind a party to do that which is absolutely impossible in itself. Jones v United States (US) 6 Otto 24, 24 L Ed 644.

**impossible contract.** A contract to do a thing which is in the nature of things impossible.

Such a contract is to be distinguished from one which could be performed by anyone possessing the means, skill and knowledge requisite for performance, but which the party is unable to perform; as a contract binding a party to pay money who is without funds to pay. Klauber v San Diego Street Car Co. 95 Cal 353, 30 P 555.

**impossible statement.** A representation so extravagant that only a credulous person will believe it. 23 Am J2d Fraud § 156.

**impost.** Any tax or imposition, but particularly a duty on imports. 21 Am J2d Cust D § 1.

The word "impost" is derived from the Latin word "impono," which was generally used among the Romans as meaning to lay or levy a tax, and in our language has scarcely had any other meaning than a tax, however assessed, levied or collected by a government, although by usage "impost" has acquired the more restricted meaning of taxes or duties imposed by government on imports. Neary v Philadelphia, Wilmington & Baltimore Railroad Co. 12 Del (7 Houst) 419, 440.

**impostor.** One who poses as another. In a restricted sense, a person who misrepresents himself as another person, or as agent for another person. Anno: 54 ALR 1330. One who perpetrates a fraud by impersonation. Comment to UCC § 3-405.

See **impersonation.**

**impotence.** Same as **impotency.**

**impotency.** A term applying to both male and female. 4 Am J2d Annul § 32. Incapacity, whether from malformation or organic defect, to

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have natural and complete sexual intercourse. 4 Am 12d Annul § 32. Incapacity for ordinary and complete sexual intercourse, whether arising from malformation or absence of the sexual parts or organs or genital weakness. 35 Am J1st Mar § 121. Inability to engage in, or lack of capacity for, normal sexual intercourse. Anno: 65 ALR2d 778 § 2.

Excessive sensibility rendering sexual intercourse practically impossible on account of the pain it would inflict is within the meaning of impotency which renders a marriage voidable. S. v S. 192 Mass 194, 77 NE 1025.

See **triennial test; viripotens.**

**impotency quoad hoc.** Incapacity for sexual intercourse with this person.

**impotent.** In a state of impotency.

See **impotency.**

**Impotentia excusat legem.** Impossibility cuts out or dispenses with law. See 2 Bl Comm 127.

**impotentiam.** See **property propter impotentiam.**

**impound.** To place animals taken up or distrained in a building or enclosure known as a pound. 4 Am J2d Ani § 40. To hold animals, goods, or funds in legal custody.

See **pound**.

**impounded animal.** Any animal in the custody of an animal pound. 4 Am J2d Ani § 48.

**impounded funds.** Funds held in legal custody.

**impounded property.** Movable property held in legal custody.

**impoverishment.** See **pauper**.

**impracticable.** Not feasible. Not capable of successful or worthwhile accomplishment.

In matters of business, a thing is commonly treated as "impracticable" when it cannot be done without laying out more money than the thing is worth. *Devitt v Providence Washington Ins. Co.* 61 App Div 390, 70 NYS 654.

**imprescriptibility.** Incapability of being acquired by prescription.

**imprescriptible right.** A right which a person cannot secure by prescription; such as a right to maintain a nuisance.

**impression.** An image fixed in the mind; a belief. *Riggs v Tayloe* (US) 9 Wheat 483, 6 L Ed 140. An indentation, fissure, or other mark made by the weight of one object applied to another or by the hammering of an object.

**impressment.** Forcing into service, particularly public service or military service. The seizure of seafaring men for compulsory service in the navy.

The power to impress seamen appears to have had a common-law origin, but even the early English statutes greatly curtailed it. See 1 Bl Comm 419. The impressment of American citizens into service in the English navy, however, was one of the causes of the War of 1812.

**imprest.** See **auditors of the imprest**.

**imprest money.** Money paid for the impressment of seamen.

**impretiabilis.** Without price; invaluable.

**imprimatur.** Let it be printed,—a license from the government which was formerly required in England for the publication of a book.

**imprimere.** To impress; to print.

**imprimis.** Especially; first of all; principally.

**imprison.** To deprive a person of his liberty without his consent. *Efroymson v Smith*, 29 Ind App 451, 453, 63 NE 328.

**imprisoned on a criminal charge.** The state or condition of a person who is imprisoned, but not yet convicted. *Mitchell v Greenough* (CA9 Wash) 100 F2d 184.

**imprisonment.** The holding of a person from the time of his commitment to the time of his discharge. 41 Am J1st Pris & P § 2. The holding of a person as a prisoner under a commitment ordered pursuant to a sentence for a crime or a commitment for temporary detention pending the disposition of a criminal charge. Any restraint placed upon a person contrary to his wishes and amounting to a physical detention of his person. United States ex rel. Carapa v Curran (CA2 NY) 297 F 946, 36 ALR 877. Any exercise of force, or express or implied threat of force, by which in fact a person is deprived of his liberty, compelled to remain where he does not wish to remain, or to go where he does not wish to go. 32 Am J2d False Imp § 11.

See **close confinement; commitment; false imprisonment; hard labor; prison; prisoner; solitary confinement.**

**imprisonment at hard labor.** See **hard labor.**

**imprisonment for debt.** Imprisonment under an execution against the person of the judgment debtor. 30 Am J2d Exec § 865. Taking and holding a person in custody under mesne process to secure his presence until final judgment. 5 Am J2d Arr § 52.

Most of the state constitutions contain provisions which, although varying considerably in terminology and application, prohibit imprisonment for debt. In some jurisdictions, imprisonment for debt is prohibited by statute. 5 Am J2d Arr § 54.

The effect of a commitment for contempt for failure to comply with an order of court requiring a trustee to turn over assets is not an imprisonment for debt. Watkins v Rives, 75 App DC 109, 125 F2d 33.

**imprisonment on civil process.** Imprisonment for debt, whether under execution against the person or under mesne process; imprisonment for contempt in failing to comply with an order of court. 17 Am J2d Contpt §§ 104 et seq.

See **imprisonment for debt.**

**impristi.** Sympathizers; partisans; allies; backers.

**improbare.** To disallow; to disapprove; to reject; to overrule.

**improbation.** An action to have an instrument declared void on the ground of forgery. *improbatory.* See **articles improbatory.**

**improper.** That which is not suitable; unfit; not suited to the character, time and place. Chadbourne v Newcastle, 48 NH 196, 199. Not fitted to the circumstances. Pennsylvania Co. v Sloan, 125 Ill 72, 80.

**improper conduct.** Such conduct as a man of ordinary and reasonable care and prudence, would not have been guilty of, under the circumstances, par-

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ticularly, conduct which is immoral. Palmer v Concord, 48 NH 211, 214.

See **immorality.**

**improper fee.** Same as **improper feud.**

**improper feud.** A fee or feud such as was originally sold to the feudatory for a price; such as was held upon base or less honorable services, or upon a rent, in lieu of military service; such as was in itself alienable, without mutual license; and such as might descend indifferently either to males or females. See 2 Bl Comm 58.

**improperly.** Acting in a manner which is unsuitable, unfitting, or wrong, especially in reference to the time, place, and circumstances. In connection with the conduct of a person, acting in a manner much different from that which a man of ordinary and reasonable care and prudence would have followed under the circumstances of the case. Cairnes v Hillman Drug Co. 214 Ala 545, 547, 108 So 362.

**improper navigation.** Navigation of a vessel in a manner contrary to the rules of navigation; navigation of a vessel not in a fit condition for navigation with safety to the vessel or cargo. *The Manitoba* (DC NY) 104 F 145, 155.

**improper use doctrine.** The doctrine of patent law, also known as the unclean hands doctrine, which denies the owner of a patent relief against one who supplies unpatented material to a licensee of the patent, although there is an agreement between the patent owner and the licensee that all unpatented materials used in connection with the patent shall be purchased from the patent owner, the latter having no right to exact such an agreement of the licensee. *Carbice Corporation of America v American Patents Development Corp.* 283 US 27, 75 L Ed 819, 51 S Ct 334.

**impropriate rector.** A layman who had been invested with a benefice and thus made a rector.

**impropiation.** The investiture of a benefice in a layman or in a lay corporation.

**impropiator.** A layman or lay corporation holding the appropriation of a benefice. An impropriate rector.

**improprrium.** See **feudum hauberticum**.

**improve.** To become better. To use to good purpose. To make better; to increase the value of something by alteration or addition. To construct buildings, put up fences and provide drainage ditches on land. The performance of any act, whether on or off a lot or tract of land, the direct and proximate tendency of which is to enhance its value in the market. *Vandall v South San Francisco Dock Co.* 40 Cal 83, 90. In a meaning peculiar to Scotch law, to disprove; to impeach; to annul.

**improved land.** Land used or employed to good purpose, or turned to profitable account. *Johnson v Frederick*, 163 Ala 455, 50 So 910. Land upon which buildings have been erected to render the use of the land more profitable and more convenient. *Vandall v South San Francisco Dock Co.* 40 Cal 83.

**improvement.** A change for the better. Anything that enhances the value of real property permanently for general uses, including buildings, fixtures, fences, wells, orchards, etc., including additions to existing buildings. 27 Am J1st Improv § 2; 36 Am J1st Mech L § 43. Original construction or substantial reconstruction as distinguished from repair. *Hazard v Main Street Realty Co. (Ky)* 262 SW2d 87, 41 ALR2d 609 (statutory definition for purposes of special assessment.)

Although there is some authority to the contrary, it has been held in a few instances that labor performed in clearing, grading, landscaping, and the like, did not come within the meaning of the words "improvement" under mechanic's lien statutes covering erection, construction, alteration, repair, or other improvements with regard to buildings, structures, and appurtenances. Anno: 39 ALR2d 870.

An "improvement" contemplated by a provision in a lease for its cancellation in case the lessor "desires" to improve the premises has been held to be something substantial in character, as distinguished from that which is petty or minute; and it must be permanent in its use and value, as distinguished from that which is ephemeral or subject to easy and frequent change. 32 Am J1st L & T § 835.

See **improvement on invention; public improvement**.

**improvement bond.** A bond issued by a municipality or other public body to be paid from no source other than an improvement fund. *Manker v American Sav. Bank & Trust Co.* 131 Wash 430, 230 P 406, 42 ALR 1021. An obligation of an improvement district payable only from the fund provided by special assessment. *Northern Trust Co. v Wilmette*, 220 111 417, 77 NE 169.

**improvement district.** A drainage district, sewer district, or other area organized for the construction and maintenance of a public improvement. An area or district within which property is specially benefited by a local public improvement with the

consequence that a special or local assessment is made against such property to finance the improvement. 48 Am J1st Spec A § 114. A public debtor within the provisions of the Bankruptcy Act for relief to public debtors. 9 Am J2d Bankr § 1416.

**improvement lien.** A lien recognized in equity in a proper case for the benefit of one who claims compensation for an improvement made on the land of another. 27 Am J1st Improv § 30.

See **mechanic's lien; special assessment lien.**

**improvement on invention.** That which improves on a patentable or patented invention. 40 Am J1st Pat § 18. A change in a machine by introducing some mechanical principle or mode of operation not previously existing in the machine. 40 Am J1st Pat § 52. An achievement which marks a distinct advance in an art. 40 Am J1st Pat. § 54. The selection and adaptation of an existing form beyond the mere exercise of the imitative faculty, the result of which is in effect a new creation. *Smith v Whitman Saddle Co.* 148 US 674, 37 L Ed 606, 13 S Ct 768.

**improvement patent.** A term applied to the vast majority of patents and covering discoveries made in the fields where others have already labored but have failed to obtain that state of perfection which frequently follows experience, further study, and experimentation. *Northwest Engineering Corp. v Keystone Driller Co.* (CA7 Wis) 70 F2d 13.

**improvement petition.** A petition for a public improvement, the expense of which is to be defrayed by special assessments.

**improvements.** See **improvement; public improvement.**

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**improvidence.** Want of thrift. *Amado v Aguirre*, 63 Ariz 213, 161 P2d 117, 160 ALR 1126. Carelessness, indifference, prodigality, wastefulness, or negligence in reference to the care, management, and preservation of property. *Re Davis' Estate*, 10 Mont 228, 25 P 105.

**improvident contract.** A contract which is unwise, unprofitable or oppressive, resulting from bad calculation or the want of vigilance on the part of the party who seeks relief therefrom. 27 Am J2d Eq § 25. A contract disadvantageous to one of the parties; a contract financially improvident or a contract so unreasonable and such an abnegation of legal rights that, for protection of the public, it should not be enforced; a contract, the enforcement of which will bring about an unreasonable restriction of the liberty of a person to exercise his profession or occupation or earn his living. 17 Am J2d Contr § 192.

**improvident person.** A spendthrift. One given to improvidence.

See **improvidence.**

**improviso.** See **ex improviso.**

**impruiamentum.** Same as **improvement.**

**impruiare.** To improve; to erect improvements on land.

**impubes.** (Civil law.) A child over seven years of age who has not yet reached the age of puberty.

**impulse.** Sudden force. A spontaneous inclination of the mind prompting an immediate involvement in something not theretofore in contemplation. *Curry v Federal Life Ins. Co.* (Mo) 287 SW 1053, 1056.

See **irresistible impulse; uncontrollable impulse.**

**impulsive insanity.** That form of insanity by which a person is irresistibly impelled to the commission of an act, sometimes accompanied by delusions and sometimes not, sometimes apparent and sometimes concealed. *Mutual Life Ins. Co. v Terry* (US) 15 Wall 580, 21 L Ed 236. Otherwise known as irresistible impulse.

**impunitas.** Same as **impunity.**

**Impunitas continuum affectum tribuit delinquendi.** Impunity offers a constant opening to the delinquent.

**Impunitas semper ad deteriora invitat.** Impunity always invites greater offenses.

**impunity.** Freedom or exemption from punishment.

See **immunity.**

**impure.** Adulterated; containing foreign matter, especially deleterious substances. Immoral.

**impure water.** Water injurious to health or unreasonably muddy so as to be unfit for use in a laundry. 56 Am J1st Watwk § 75.

**Impuris manibus nemo accedat curiam.** Let no one approach the court with unclean hands.

**imputable negligence.** See **identification; imputed negligence.**

**imputatio.** (Civil law.) Legal responsibility.

**imputation of payments.** A term of the civil law for application of payments.

**imputed.** Attributed or charged to a person, not as the one who personally perpetrated the wrong or created the situation from which injury has resulted, but as one who, because of his relationship to another person, is responsible for the acts or omissions of that person. Anno: 42 ALR 719.

**imputed intent.** See **implied intent.**

**imputed knowledge.** An agent's knowledge which is binding upon his principal because of the agency relationship between them. 3 Am J2d Agency § 273; 29A Am J Rev ed Ins § 1019. Knowledge of a fact or facts charged to a person because the circumstances are such that a person of ordinary common sense would know them. 29 Am J2d Ev § 27. That which it is one's duty to know and concerning which he has the means of knowing. *Darling & Co. v Petri*, 138 Kan 666, 27 P2d 255.

**imputed negligence.** The negligence of one person which, by reason of his relation to another person, is chargeable to that person. 38 Am J1st Negl § 234. A ground for defeating liability for negligence by charging the plaintiff with the concurrent negligence of a third person, thereby rendering the defense of contributory negligence available. 38 Am J1st Negl §§ 235 et seq. Also a basis for charging the negligence of one person to another in establishing the liability of the latter to a third person. 38 Am J1st Negl § 253.

**in.** Within, as "in an hour." Indicating a location, as "in Boston." *Rogers v Galloway Female College*, 64 Ark 627, 44 SW 454. Abbreviation of inch, also of inches.

With Latin words and phrases the word, as a preposition, has many meanings; in; on; to; into; within; according to; in the course of; at; among.



**in abeyance.** Said of a fee when there is no person in being in whom it can vest and abide, although the law considers it as always potentially existing, and ready to vest whenever a proper owner appears. See 2 Bl Comm 107.

**inability.** Want of ability or capacity to act or perform. Want of physical capacity or of capacity in an abstract sense, as inability of a trust company to act as trustee under a deed of trust, arising from its insolvency. State ex rel. Bannister v Gantley, 330 Mo 943, 62 SW2d 397.

**inability to bear.** Inability to become a mother, which may or may not arise from impotency. 4 Am J2d Annul § 30.

**inability to beget.** Inability to be a father or sire, which may or may not arise from impotency. 4 Am J2d Annul § 30.

**inability to pay.** Not insolvency in itself. 9 Am J2d Bankr § 160.

**inability to testify.** Mental or physical inability to testify. Hansen-Rynning v Oregon-Washington R. & Nav. Co. 105 Or 67, 209 P 462.

**inability to work.** For the purposes of allowing workmen's compensation, inability to carry on one's usual employment. Clini v New Haven Brewing Co. 119 Conn 556, 177 A 745.

See **physical inability to work.**

**in absentia.** In the absence.

**in absurdum.** See **ducitur in absurdum.**

**inaccessible.** In a place which cannot be reached.

Whether or not a witness beyond the jurisdiction of the state is inaccessible, in the sense in which the word is used in a statute making his inaccessibility

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an excuse for failure to produce him, is a question for the trial judge to determine. In the absence of such a statute, a witness so situated would doubtless be deemed inaccessible. Atlanta & Charlotte Air-Line Railway Co. v Gravitt, 93 Ga 369, 371, 20 SE 550.

**inaction.** A condition or state of no action or motion. A matter of not speaking or acting.

See **estoppel by inaction.**

**in action.** A right asserted in, and awaiting determination by, an action.

Property is "in action," where one is not in the occupation of it, but has a bare right to occupy or possess it, which he may enforce in an action or suit. See 2 Bl Comm 396.

See **chose in action.**

**inaction by Congress.** The absence of congressional legislation, particularly in the field of interstate commerce. 15 Am J2d Com § 20.

**inactive account.** A savings bank account which has stood for years without a deposit or withdrawal. 10 Am J2d Banks § 416.

**inactive concert or participation.** A nonparty who, while engaging in the prohibited act, aids and abets, or is legally identified in interest with, an enjoined defendant, who likewise engages in the enjoined act. Rule 65(d) Fed Rules of Civ Proc; Anno: 97 ALR2d 491.

**in actual use.** As the term appears in a statute exempting wearing apparel from import duties:—apparel being worn at the time and also apparel in a passenger's trunks or luggage intended for and awaiting use in wearing it. *Astor v Merritt*, 111 US 202, 28 L Ed 401, 4 S Ct 413.

**inadequacy of plant.** The condition of a public utility plant where an increase in business requires the replacement of equipment by new equipment fitted more adequately to the demands of the service. 43 Am J1st Pub Util § 145.

**inadequacy of price.** The price obtained at a judicial sale:—inadequacy so gross as to shock the conscience and raise a presumption of fraud, unfairness, or mistake. 30A Am J Rev ed Jud S § 135.

**inadequate damages.** An award so small as to indicate passion, prejudice, partiality, or corruption on the part of the jury, or to make it appear that the jury disregarded the instructions of the court or labored under a vital mistake or misapprehension of the principles by which they should have been governed in making the award. 22 Am J2d Damg § 398. An award in an amount so small as to bear no reasonable relation to the loss suffered by the plaintiff or to indicate an evident failure of justice. 22 Am J2d Damg § 398.

**inadequate remedy at law.** A remedy which, although available at law, is not plain, clear and certain, prompt or speedy, sufficient, full and complete, practical, efficient to the attainment of the ends of justice, and final. 27 Am J2d Equity § 94. A remedy which is circuitous or doubtful, or is not as plain, complete, and efficient as an equitable remedy. 49 Am J1st Spec Per § 11. Specifically, a remedy limited to compensatory damages which under the circumstances of the case does not do complete justice between the parties. 49 Am J1st Spec Per § 10.

**inadmissible.** Not receivable as evidence.

**in adversum.** Against an adverse party; against the will or without the consent.

**inadvertence.** The state of one acting in an inadvertent manner. Absence of intention. *Harris v Piggly Wiggly Stores*, 236 Ill App 392. Acting without thought or premeditation. 38 Am J1st Negl § 5. A mistake; oversight. *Tremont Trust Co. v Burack*, 235 Mass 398, 126 NE 782, 9 ALR 1067, 1069. An unplanned occurrence.

**inadvertent.** See **inadvertence**.

**inaedificatio.** (Civil law.) A building; so constructing a building as to encroach upon the land of another; constructing a building on one's own land with materials belonging to another.

**In aedificiis lapis male positus non est removendus.** In buildings, a stone badly placed cannot be removed.

**in aequali jure.** In equal right. An essential element in the application of the principle of contribution. 18 Am J2d Contrib § 1.

**In aequali jure melior est conditio possidentis.** In a case of equal right the situation of the party in possession is the better.

**In aequali jure potior est conditio possidentis.** In a case of equal right, the situation of the party in possession is the stronger.

**in aequali manu.** Same as **in aequa manu**.

**in aequa manu.** In equal hand; that is, in the hands of an indifferent person.

**in aid of its jurisdiction.** A phrase permissive of the power of a federal court to stay by injunction a proceeding in a state court. 28 USC § 2283.

**inalienability.** The quality of being nontransferable.

By giving to certain lands allotted to Indian tribes the character of inalienability, it is held that Congress has thereby made the lands nontaxable, because in order to make the restriction against alienation properly effective, nontaxability follows as an implied concomitant. *Colonial Trust Co. v Lewellyn* (DC Penn) 12 F2d 481.

**inalienable.** Incapable of being aliened, transferred, or conveyed; non-transferable.

**inalienable rights.** The fundamental rights and privileges; the right to personal liberty and individual ownership of property, freedom of religion, freedom of speech and press; due process of law, etc. 16 Am J2d Const L § 328.

**in alieno solo.** On the land of another.

**in alio loco.** In another place.

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**in all likelihood.** With reasonable certainty. *Coppinger v Broderick*, 37 Ariz 473, 295 P 780, 81 ALR 419.

**in all probability.** The highest degree of probability; with reasonable certainty. *Coppinger v Broderick*, 37 Ariz 473, 295 P 780, 81 ALR 419.

**In alta proditione nullus potest esse accessorius sed principalis solummodo.** In high treason no one can be an accessory but each one is a principal. *Ex parte Bollman* and *Ex parte Swartout* (US) 4 Cranch 75, 126, 2 L Ed 554, 571.

**In alternativis electio est debitoris.** In alternatives, the debtor has his election.

**In ambigua voce legis ea potius accipienda est significatio quae vitio caret, praesertim cum etiam voluntas legis ex hoc colligi possit.** In an ambiguous expression of law, that construction ought rather to be adopted which renders it free from fault, especially when the intent of the law can thus be gathered.

**In ambiguis casibus semper praesumitur pro rege.** In doubtful cases, the presumption is always on the side of the crown.

**In ambiguis orationibus maxime sententia spectanda est ejus qui eas protulisset.** In ambiguous expressions, the intent of him who made them ought to be regarded as most important.

**In ambiguo sermone non utrumque dicimus sed id duntaxat quod volumus.** In ambiguous discourse or conversation, we do not say either one thing or the other, but neither more nor less than we wish.

**in amity.** In peace.

In amity with the United States is an expression commonly used in acts of Congress dealing with the Indian tribes and means at peace, or more specifically, carrying on no hostilities toward the United States, its citizens or its property. *Leighton v United States*, 161 US 291, 40 L Ed 703, 16 S Ct 495.

**in a motor vehicle.** A phrase indicating a relationship between a person and a vehicle, such as riding in the vehicle or being in the process of entering or leaving the vehicle, but not limited to one sitting in the vehicle in the place provided for the accommodation of driver or passenger. 29A Am J Rev ed Ins § 1241.

**in and on the body.** A phrase used in an indictment charging the use of an instrument in an abortion or attempted abortion. State v Longstreth, 19 ND 268, 121 NW 1114.

**in an elevator.** A clause in an accident insurance policy or double indemnity provision of a life insurance policy; comprehending an injury, the moving or primary cause of which originates in an elevator, for example, a fall down the shaft subsequent to an accident involving the elevator car, or an injury consequent to a fall by one intending to be a passenger into the pit of the shaft. 29A Am J Rev ed Ins § 1235.

**In Anglia non est interregnum.** In England there is no interregnum. The king never dies, for immediately upon his decease, his kingship is vested in his heir. See 1 Bl Comm 249.

**in an intoxicated condition.** Under the influence of intoxicating liquor. 7 Am J2d Auto § 257.

There is, however, authority to the effect that while all persons intoxicated by the use of alcoholic liquors are "under the influence of intoxicating liquor," the reverse is not true. 7 Am J2d Auto § 257.

**in another state.** See **arising in another state.**

**in any degree under the influence of intoxicating liquor.** Intoxicated. Anno: 13 ALR2d 1003.

**in aperta luce.** In open daylight.

**in apicibus juris.** In the extremes of the law.

**inapplicable.** No applicable. In one sense, not suitable. Freedman v Petty, 93 Ga App 590, 92 SE2d 588, 589.

**in a public conveyance.** See **in or on a public or passenger conveyance.**

**in arbitrio judicis.** In the discretion of the court; for the decision of the court. Rhodes v Whitehead, 27 Tex 304.

**in arbitrium alieno.** In the discretion of another person.

**in arbitrium judicis.** In the decision or discretion of the court.

**in arcta et salva custodia.** In close and safe custody.

**in articulo.** At the point; at the moment.

**in articulo mortis.** At the point of death.

See **in extremis.**

**In atrocioribus delictis punitur affectus licet non sequatur effectus.** In the more atrocious crimes, the attempt is punished although the result does not follow.

**in auditu.** Within the hearing. Brown v Brashier (Pa) 2 Penr & W 114.

**inauguration.** The installation into office of a person elected or appointed to a high office of state. Making a beginning; putting into effect.

**Inauguration Day.** The day, January 20, following their election, for the inauguration of the President and Vice President of the United States. The day fixed by law of a state for the inauguration of the Governor.

**in auter droit.** In the right of another person. 2 Bl Comm 177.

**in bad faith.** With actual intent to deceive or mislead. Penn Mut. Life Ins. Co. v Mechanics' Sav. Bank & Trust Co. (CA6 Tenn) 73 F 653.

See **bad faith.**

**in banco.** On the bench; in bank, that is, when all of the judges of the court are sitting.

**in bank.** With all of the judges of the court sitting.

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**in bar.** See **plea in bar.**

**in being.** In existence; alive. An unborn child, after conception, if it is subsequently born alive and so far advanced to maturity as to be capable of living, is considered as "in esse" from the time of its conception where it is for the benefit of the child that it should be so considered. Hone v Van Schaick (NY) 3 Barb Ch 488, 509.

For the purpose of taking any estate which is for his benefit, whether by descent, devise, or under the statute of distributions, a person is held both in England and in the United States to be "in being" from the time of his conception, the commencement of foetal existence being placed at a time nine months before birth. 23 Am J2d Desc & D § 88; 57 Am J1st Wills § 154. If the child is born dead or in such an early stage of gestation as to be incapable of living, the situation is as though he had never been conceived or born. 23 Am J2d Desc & D § 88; 57 Am J1st Wills § 154.

See **in.**

**in blank.** An instrument drawn and executed with blank spaces left to be filled later.

See **indorsement in blank.**

**inblaura.** Produce of the soil; the profit of such produce.

**inboard.** Stowage of cargo under deck or, at least, with no part projecting over the rail of the vessel.

**inboard motorboat.** A motorboat, the engine of which is mounted within the hull.

**in body.** See **in person.**

**in bona fide operation.** An expression in the "grandfather clause" of the Federal Motor Carrier Act indicating prior service that was actual rather than simulated and legal rather than in defiance of the laws of the state. McDonald v Thompson, 305 US 263, 83 L Ed 164, 59 S Ct 176, reh den 305 US 676, 83 L Ed 437, 59 S Ct 356.

See **grandfather clause.**

**in bonis.** Among the goods; in the property.

**in bonis defuncti.** Among the goods or in the property of the deceased.

**in bonis, in terris, vel persona.** In either his goods, his lands or his person. See 1 Bl Comm 141.

**inborow.** A gatehouse between principalities.

**inbound common.** A common with definite boundaries but not fenced.

**In Britannia tertia pars bonorum decedentium ab intestato in opus ecclesiae et pauperum dispensanda est.** In Britain a third part of the goods left by an intestate is to be distributed for the needs of the church and the poor. See 2 Bl Comm 495.

**in camera.** In chambers; in private. A trial in which the court excludes the public from the courtroom. 24 Am J2d Div & S § 334.

**incapable.** Unfit for work, or for the performance of a particular task, for want of physical strength, education, or mentality. Having physical or mental disability. Ineligible; disqualified.

A statute which provided for certain action to be had upon the death or disability of the judge would ordinarily be construed to refer to the physical or mental disability of the judge. Used in this connection, it would not in the customary use of language be construed to mean if the judge was incapable to act because of disqualification. *Todd v Bradley*, 97 Conn 563, 117 A 808, 25 ALR 22, 25.

**incapable of being ascertained.** The absence of any rule for the guidance of the jury or the trier of the facts for the determination of the amount of actual damages from breach of contract, wherefrom a stipulation in the contract may be deemed a provision for liquidated damages, not a penalty. 22 Am J2d Damg § 218.

**incapacitated.** See **incapacity; physically incapacitated.**

**incapacity.** In the broader meaning, physical or mental inability to act. In some contexts, confined to mental disability or incapability. *Ellicott v Ellicott*, 90 Md 321, 45 A 183 (incapacity to pursue a college education.) For the purposes of workmen's compensation:—inability to procure employment or incapacity to perform the service. 58 Am J1st Workm C § 282.

See **mental incapacity; physical incapacity.**

**incapacity for work.** A familiar phrase in workmen's compensation statutes; including not merely want of physical ability to work, but lack of opportunity for work; loss of earning power as a workman in consequence of the injury, whether the loss manifests itself in inability to perform such work as may be obtainable, or inability to secure work to do. *Ray v Frenchmen's Bay Packing Co.* 122 Me 108, 119 A 191, 33 ALR 112, 114.

**incapacity of physician.** See **manifest incapacity.**

**incapacity to defend.** Infancy. 27 Am J1st Inf § 116. Insanity. 29 Am J Rev ed Ins Per § 123.

**incapacity to sue.** Want of capacity arising from infancy, incompetency, lack of authority, etc., as a result of which the plaintiff lacks standing to maintain the action. 39 Am J1st Parties §§ 105 et seq. *incapax*. See *doliincapax*.

**in capita.** To the polls.

A challenge in capita, or to the polls, is a challenge to a particular juror. See 3 Bl Comm 361.

**in capite.** In chief.

See **tenure in capite**.

**incarcerate.** To imprison; to confine in a prison or jail.

**in case of need.** See **referee in case of need**.

**in cash.** A requirement imposed upon the insured under some insurance policies as a condition in reference to the payment of premium. 29 Am J Rev ed Ins § 542.

See **cash**.

**in casu consimili.** In a similar case.

**In casu extremae necessitatis omnia sunt communia.** In a case of extreme necessity, all things are common property.

**in casu proviso.** In the case provided.

**incaustum.** Ink.

**incautacion.** (Spanish.) A taking of property without thought of restitution, somewhat by way of punishment, as in the expropriation of property of a

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deposed king. The Navemar (DC NY) 24 F Supp 495.

**Incaute factum pro non facto habetur.** An act which is done carelessly is regarded as not having been done.

**incautious.** Careless; negligent; lacking in circumspection.

**incendiarism.** A wilful, as distinguished from an accidental, starting of a fire. Williamsburgh City Fire Ins. Co. v Willard (CA9 Cal) 164 F 404.

**incendiary.** Adjective: Kindled. Wilfully set on fire. Noun: A person guilty of arson or an attempt to commit arson.

**incendi crimen.** (Latin.) Arson.

**Incendit et combussit.** He set on fire and burned.

**Incendium aere alieno non exult debitorem.** A fire does not discharge a debtor of his debt.

**incentive compensation.** Bonus and profit-sharing plans for corporate officers and employees. 19 Am J2d Corp § 1413. Stock options for executives.

**incentive plan.** See **bonus plan**.

**incentive wages.** Bonuses or other payments made to employees in addition to guaranteed hourly wages. 31 Am J Rev ed Labor § 615.

See **incentive compensation**.

**inception.** An initial stage. The beginning.

The word does not refer to a state of actual existence, but to a condition of things or circumstances from which the thing may develop, as the beginning of work on a building. *Oriental Hotel Co. v Griffiths*, 88 Tex 574, 33 SW 652.

**inception of lien.** The commencement or attachment of alien, particularly a lien predicated upon judgment or execution. 30A Am J Rev ed Judgm §§ 520 et seq.

**inception of risk.** Assuming the consummation of a contract of insurance, the attachment of the risk covered by the policy. 29 Am J Rev ed Ins § 309.

**inception of title doctrine.** The doctrine of community-property law that property is acquired, for the purpose of classification as separate or community, at inception of spouse's title. *Hollingsworth v Hicks*, 57 NM 336, 258 P2d 724.

**Incertam et caducam hereditatem relevabat.** It freed the uncertain and fallen inheritance. See 2 Bl Comm 56.

**Incerta pro nullis habentur.** Uncertain things are regarded as nullities.

**Incerta quantitas vitiat actum.** An uncertain quantity vitiates the act.

**incest.** Sexual intercourse, either habitual or in a single instance, and either under form of marriage or without it, between persons too closely related in consanguinity or affinity to be entitled to intermarry; sexual intercourse between persons so closely related that marriage between them would be unlawful. 27 Am J1st Incest § 1.

**incestuous adultery.** Incest committed by a person who is married.

**incestuous bastard.** A person whose conception was in the perpetration of the crime of incest by his parents; a bastard born of the incestuous relations of his parents with one another.

**incestuous marriage.** A marriage between persons forbidden by law to intermarry, because they are related to one another in a certain degree. 35 Am J1st Marr § 140.

**inch.** A unit of linear measurement, one-twelfth of a foot or 254.00 centimeters. Am J2d Desk Book Document 156. Also a measure of surface area and of volume, respectively a square inch and a cubic inch.

See **inch of water; miner's inch.**

**in charge of motor vehicle.** Being in control of the movement of a motor vehicle, whether by application of the power of the motor or steering the vehicle while it is being towed or pushed by another vehicle. Anno: 47 ALR2d 585, § 5[c].

**in chief.** See **examination in chief; question in chief.**

**Inchmaree Clause.** A clause of a marine insurance policy, covering loss of, or damage to, the hull or machinery, through the negligence of master, mariners, engineers or pilots, or through explosions, bursting of boilers, or breaking of shafts, or through any latent defect in the machinery or hull, provided such loss or damage has not resulted from want of due diligence by the owners of the vessel or any of them or by the manager. Anno: 91 ALR2d 1296; 98 ALR2d 953.

**inchoate.** Imperfect; incipient; not completely formed.

**inchoate battery.** An assault. *Johnson v Sampson*, 167 Minn 203, 208 NW 814, 46 ALR 772.



**inchoate curtesy.** A term variously defined as the right of the husband akin to the inchoate right of dower of the wife; the right of the husband in a jurisdiction in which the husband's right of curtesy is by statute the same as the right of dower, such right attaching the moment the wife becomes seized in fee simple during coverture; the doctrine that on the birth of issue, even though the husband has no greater interest in the wife's property during her life because of the Married Woman's Act, he nevertheless has a potential life estate in his wife's real property conditional on his surviving her. 25 Am J2d Dow § 2.

**inchoate dower.** See **inchoate right of dower.**

**inchoate lien.** A lien that has not actually attached to the property, as in the case of a tax lien prior to the assessment of the tax. 51 Am J1st Tax § 1020. The state of a mechanic's lien before filing or giving of notice. 36 Am J1st Mech L § 167.

**inchoate right.** A rudimentary interest.

**inchoate right of dower.** The right, or expectation of a future right, that a wife has in real estate, of which her husband has become seized, while he is still living, such right becoming consummate as her dower if he dies leaving her surviving and she has not previously released her interest. *American Blower Co. v MacKenzie*, 197 NC 152, 147 SE 829, 64 ALR 1047.

**inch of candle.** See **auction by inch of candle.**

**inch of water.** A measurement of rainfall. Flowing water:-an indefinite term, without meaning in and of itself in the absence of extrinsic evidence indicating the kind of inch or the method of measurement. 56 Am J1st Wat § 4. In some jurisdictions, the amount of water that flows through an orifice one inch square in a vertical position and under a stand

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and head prescribed by custom or by statute. *New Brantner Extension Ditch Co. v Kramer*, 57 Colo 218, 141 P 498.

**incidence of tax.** The burden of a tax, that is, where the burden of payment is ultimately imposed, as where a person obligated to pay a stamp tax shifts the burden to another by charging him directly or indirectly the amount of the tax paid. 49 Am J1st Stamp T § 20.

**incident.** An event, happening, or thing, of moment because of its connection with a main or principal event, happening, or thing. *Commonwealth use of Vicars v Wampler*, 104 Va 337, 51 SE 737.

**incidental authority.** See **implied authority.**

**incidental beneficiary.** A person to whom the benefits of a contract accrue merely as an incident to the performance of the contract.

A person for whose benefit a contract is made may maintain an action thereon. It must definitely appear, however, that the contract was made for his benefit; it is not sufficient that he is merely an incidental beneficiary. *Shapiro Bros. Factors Corp. v Automobile Ins. Co.* (DC NJ) 40 F Supp 1.

**incidental fees.** Student union fee, matriculation fee, hospital fee, laboratory fee, athletic fee, etc., collected by a state university or college, admission to which is generally free by constitutional or statutory provision. 15 Am J2d Univ & C § 19.

**incidental jurisdiction.** See **ancillary jurisdiction.**

**incidental power.** A power that is directly and immediately appropriate to the execution of the specific power granted. *Nicollet National Bank v Frisk-Turner Co.* 71 Minn 413, 74 NW 160; *People ex rel. Peabody v Chicago Gas Trust Co.* 130 Ill 268, 22 NE 798.

See **implied authority**.

**incidental proceeding.** An ancillary proceeding, that is a proceeding which stems from a main or principal action or proceeding.

See **ancillary proceeding**.

**incidental relief.** Relief granted by a court of equity beyond that specifically requested in the bill or complaint. 27 Am J2d Equity § 108.

**incidental rights.** See **appurtenant rights**.

**incidental third-party beneficiary.** Same as **incidental beneficiary**.

**incidental use.** The use of a highway for a purpose other than travel or transportation, which is conducive to public convenience or tends to make the highway of greater utility, or for the purpose of travel or transportation by a special instrumentality or mode of conveyance not inconsistent or incompatible with the primary purpose of a highway or its use in the customary manner. 25 Am J1st High § 168. A familiar term in zoning laws; a use of premises dependent on or pertaining to the principal or main use. *Needham v Winslow Nurseries, Inc.* 330 Mass 95, 111 NE2d 453, 40 ALR2d 1450. A use accessory to a permitted use, sometimes limited to a use on the same premises or a use other than for business or industrial purposes. 58 Am J1st Zoning § 46.

**incident and appurtenant.** A characterization of those things which pass by a conveyance of lands, though not designated in the conveyance. 23 Am J2d Deeds § 256.

**incidents of ownership.** A test of taxability of the proceeds of life insurance under an estate tax law. 28 Am J Rev ed Inher T § 254.

**incident to employment.** A characterization of those dangers in the work and injuries compensable under a workmen's compensation statute, although not located or occurring directly on the premises of the employer. *Kozdeba v Peoples Gas Light & Coke Co.* 232 Ill App 495. A characterization of a basis for recognizing the authority of an agent or the duties and scope of employment of a servant.

**incidere.** To happen; to occur; to attack.

**Incidit in Scyllam evitare Charybdis.** He falls upon Scylla in avoiding Charybdis.

As where counsel, in his effort to prove his client innocent of one offense, shows him to be guilty of another. *Commonwealth v Eagan*, 190 Pa 10, 42 A 374.

**incinerator.** A large receptacle of metal for receiving and burning rubbish and other trash. 39 Am J1st Nuis § 94. A structure equipped for the burning of the rubbish and waste of the inhabitants of a city.

**incipitur.** It is begun.

**incite.** To arouse to action, sometimes to violence, mob action or riot, even to revolution. *State v Diamond*, 27 NM 477, 202 P 988, 20 ALR 1527, 1532. To solicit the commission of a crime, such as larceny. 32 Am J1st Larc § 91.

**incitement.** An arousing to action.

See **incite**.

**inciting fraudulent litigation.** A form of obstruction of justice. 39 Am J1st Obst J § 4.

**incivile.** Unjustly; tyrannically; improperly; unfairly.

**Incivile est, nisi tota lege prospecta, una aliqua particula ejus proposita, judicare vel respondere.** It is unfair, unless the whole of the law has been examined to adjudge or to advise respecting some particular provision of it.

The word "prospect" in the maxim is sometimes written as "perspecta."

**Incivile est, nisi tota sententia inspecta, de aliqua parta judicare.** Unless the whole of a sentence has been examined, it is unfair to pass judgment upon any certain portion of it.

**In civilibus ministerium excusat, in criminalibus non item.** In civil cases agency is an excuse, but it is not so in criminal cases.

**incivility.** Rudeness; conduct which may constitute a ground for divorce as an indignity. 24 Am J2d Div & S § 159.

**incivism.** The failure of a person to perform his duty as a citizen.

**In claris non est locus conjectures.** In matters which are clear there is no room for conjecture.

**inclausa.** An enclosure; an enclosed space.

**inclement weather.** Bad weather.

**in clientelam recipere.** To take into protection or patronage. See 2 Bl Comm 21.

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**inclination.** An encroachment, as where the wall tips or leans over adjoining premises. 3 Am J2d Adv P § 44.

**incline.** A hill or grade.

**inclose.** To encompass, bound, fence, or otherwise part off or hem in a tract of land on all sides. White Chapel Memorial Asso. v Wilson, 260 Mich 238, 244 NW 460; Kimball v Carter, 95 Va 77, 27 SE 823. To place in an envelope, particularly with a letter; the same as "enclose."

**inclosed land.** Fenced land. Land surrounded by a fence, hedge, ditch, wall, or any line of obstacles interposed so as to part off and shut in the land and set it off as private property, but not necessarily so securely as to prevent the passing of cattle to and from the premises. Kimball v Carter, 95 Va 77.

**inclosure.** A fence, wall, hedge, rail, or other tangible obstruction protecting premises against encroachment. The area protected by such visible or tangible obstruction.

As used in a statute relating to damage done by cattle, it was held to mean a tract of land surrounded by an actual fence together with such fence, and not to include that part of a public highway of which the fee belonged to the owner of an adjoining inclosure. Peck v Williams, 24 RI 583, 54 A 381.

See **ancient inclosure; fence; possession by enclosure.**

**include.** To comprise, embrace, contain, or comprehend as a component part or member. *Montello Salt Co. v Utah*, 221 US 452, 55 L Ed 810, 31 S Ct 706; *Red Wing Malting Co. v Willcuts* (CA8 Minn) 15 F2d 626, 49 ALR 459, 464.

**included offense.** A criminal offense included, within an indictment for a more serious offense, as a lesser offense, or one of a lower degree of the same general class as the more serious offense, for which the accused may be convicted under the indictment, provided he is not convicted of the more serious offense. 27 Am J1st Indict § 105.

**including.** The present participle of "include," used in the sense of "inclusive of." A term of enlargement rather than limitation. *Montello Salt Co. v Utah*, 221 US 452, 464, 55 L Ed 810, 814, 31 S Ct 706.

See **include.**

**Inclusio unius est exclusio alterius.** The inclusion of one is the exclusion of the other. *Ex parte Cox*, 44 Fla 537, 33 So 509.

**inclusive.** Embracing; comprehensive; forming a part of.

See **include; including.**

**inclusive deed.** See **inclusive grant.**

**inclusive grant.** A term applied to a deed without exception of acreage excepted in the conveyance under which the grantor holds. *Logan v Ward*, 58 W Va 366, 52 SE 398.

**inclusive survey.** See **cadastral survey.**

**incola.** An inhabitant; a person who dwells in a place.

**incolae territorii.** The inhabitants of the territory.

**incolas domicilium facit.** Residence makes the domicil. *Arnold v United Ins. Co.* (NY) 1 Johns Cas 363, 366.

**incombustible.** Incapable of being burned or consumed by fire, at least an ordinary fire. *Sylvania v Hylton*, 123 Ga 754, 51 SE 744.

**income.** A word having different meanings, dependent upon the connection in which it is used and the result intended to be accomplished. *Equitable Trust Co. v Prentice*, 250 NY 1, 164 NE 723, 63 ALR 263. For tax purposes, the gain derived from capital, from labor, or from both combined (*Eisner v Macomber*, 252 US 189, 64 L Ed 521, 40 S Ct 189, 9 ALR 1570), including profit gained through a sale or conversion of capital assets. *Doyle Case*, 247 US 183, 62 L Ed 1054, 38 S Ct 467. In reference to a life tenant, something produced by capital and severed from capital, leaving the property or principal intact. *Rhode Island Hospital Trust Co. v Tucker*, 51 RI 507, 155 A 661, 83 ALR 1253, mod on reh 52 RI 277, 160 A 465, 83 ALR 1259. Ordinarily, but not necessarily, cash or money; sometimes taking the form of property. *United States v Siegel* (CA8 Mo) 52 F2d 63, 78 ALR 672, cert den 284 US 679, 76 L Ed 574, 52 S Ct 140. In the usual signification, net, rather than gross, income. 33 Am J1st Life Est § 284. Profits earned rather than a fixed annuity. 4 Am J2d Annu § 3.

See **gross income; net income; ordinary income.**

**income and revenues.** That which will accrue to a municipality from all sources of its operations and employment of its taxing power, including delinquent taxes which are collectible. 38 Am J1st Mun Corp § 479.

**income averaging.** An elective method of computing income tax by an individual, not a corporation or trust, who has unusually large income in the current taxable year as compared with the four preceding years, whereby the taxpayer may elect to have the excess taxed, in effect, as if he had received it over five years instead of all in a single year. IRC §§ 1301, 1302, 1305.

**income bearing.** Productive of income. Re Briggs' Estate, 139 Cal App 2d 802, 294 P2d 478, 481.

**income excise tax.** See **income tax.**

**income execution.** Garnishment for the purpose of collecting a judgment out of income of the judgment debtor. 30 Am J2d Exec § 774.

**income, rents, and profits.** As the term appears in a will, deed, or trust instrument:—net income. 33 Am J1st Life Est § 285.

**income tax.** A tax based on income, gross or net. Powell v Gleason, 50 Ariz 542, 74 P2d 47, 114 ALR 838. Usually regarded as an excise rather than a property tax. Sims v Ahrens, 167 Ark 557, 271 SW 720; Miles v Department of Treasury, 209 Ind 172, 199 NE 372, 97 ALR 1474, 101 ALR 1359, app dismd 298 US 640, 80 L Ed 1372, 56 S Ct 750.

Income tax laws do not profess to embody perfect economic theory. They ignore some things that either a theorist or a businessman would take into account in determining the pecuniary condition of the taxpayer. Weiss v Wiener, 279 US 333, 73 L Ed 720, 49 S Ct 337.

**income tax return.** See **tax return.**

**in commendam.** In trust.

**In commodato haec pactio, ne dolus praestetur, rata non est.** (Civil law.) In a commodatum, an agreement that fraud is not to be answered for is not valid.

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**Incommodum non solvit argumentum.** An inconvenience does not settle an argument.

**in common.** Participating or sharing in ownership, use or enjoyment of anything. Land open to public use. 35 Am J2d Fen § 19.  
See **estate in common.**

**in communi.** In common.

**incommunication.** The confinement of a prisoner in such a manner as to prevent his seeing or conversing with other persons.

**incompatibility.** Conflicts in personalities and dispositions. As a ground for divorce:—conflicts in personalities and dispositions which are so deep as to be irreconcilable and irremediable, and which render it impossible for the parties to continue to live together in a normal marital relationship. Burch v Burch (CA3 Virgin Islands) 195 F2d 799. Such conflict of personalities as to destroy the legitimate ends of matrimony and the possibility of reconciliation. Wegener v Wegener (Okla) 365 P2d 728.

See **incompatible offices; incompatible things.**

**incompatible.** See **incompatibility; incompatible offices; incompatible things.**

**incompatible offices.** Public offices which cannot be held by one person at the same time. 42 Am J1st Pub Of § 70. Two public offices having respectively such duties and functions that the performance of the duties of the one will so interfere with the performance of the duties of the other that it will be impossible for the same incumbent to discharge the duties of both offices

faithfully, impartially, and efficiently. *Haymaker v State ex rel. McCain*, 22 NM 400, 163 P 248; *State ex rel. Metcalf v Goff*, 15 RI 505, 9 A 226.

**incompatible things.** Things which cannot coexist without disturbance at the same time and place. *Commonwealth v Staunton Mut. Tel. Co.* 134 Va 291, 114 SE 600.

**incompetence.** See **incompetency**.

**incompetency.** Inefficiency; a lack of some requisite ability. Anno: 4 ALR3d 1095. Inadequacy or insufficiency, either physical or mental, as the incompetency of a child for hard labor or of an idiot for intellectual labor. *Brandt v Godwin*, 24 NYSE 305, 3 NYS 807, 811. Want of qualification or eligibility. Of public officer:-the absence of a physical, moral, or intellectual quality, incapacitating one to perform the duties of his office, characterized by gross neglect of duty or gross carelessness in the performance of duty, lack of judgment, and want of sound discretion. *State ex rel. Hardie v Coleman*, 115 Fla 119, 155 So 129, 92 ALR 988. Of a schoolteacher:-want of knowledge of the subject matter to be taught; inability to maintain discipline; physical mistreatment of pupils; even improper conduct outside of school. Anno: 4 ALR3d 1102, 1109, 1117. Of an employee:-want of ability suitable to the task, as regards natural qualities or experience, or deficiency of disposition to use one's ability and experience properly. 35 Am J1st M & S § 197. Of fellow servant: want of ability suitable to the task with which the fellow employee is charged, either as regards natural ability or experience, or deficiency of disposition to use one's ability and experience properly; qualities and characteristics calculated to cause reasonable apprehension that the admission to the service or the retention therein of the incompetent will or may imperil the safety of other employees. *Still v San Francisco & Northwestern Railway Co.* 154 Cal 559, 98 P 672; 35 Am J1stM&S§350.

See **mental incapacity; physically incapacitated**.

**incompetency proceeding.** A proceeding for the determination of the competency or incompetency of a person for the purpose of determining whether the state may or should assume jurisdiction over his person or property, or for the purpose merely of giving public notice of the existence of such status. 29 Am J Rev ed Ins Per §§ 9 et seq. A special action within the meaning of a statute providing for appeal from a final order made in a special action. *State ex rel. McPherson v Rakey*, 236 Iowa 876, 20 NW2d 43.

**incompetent.** See **incompetency; incompetent person**.

**incompetent, irrelevant, and immaterial.** A very general objection to the admissibility of evidence, usually held insufficient, when standing alone, for want of a statement of specific ground or reason. 53 Am J1st Trial § 138.

**incompetent person.** Literally and broadly, one lacking competency, physical or mental. Usually having reference in the law to an insane or feeble-minded person; a person lacking the mental capacity to make a contract or engage in business transactions. Sometimes inclusive of any one incapacitated for the making of a contract or the transaction of business, whether his incapacity arises from mental unsoundness or infancy. *Walgreen Co. v Industrial Cem.* 323 Ill 194, 153 NE 831, 48 ALR 1199, 1202.

See **incompetency; spendthrift**.

**incomplete dedication.** A defective statutory dedication or an ineffectual attempt to make a statutory dedication, operating by way of estoppel when accepted by the public or when rights are acquired under it by third persons. *Hooper v Haas*, 332 Ill 561, 164 NE 23, 63 ALR 658.

**incomplete gift.** See **imperfect gift**.

**incomplete possession.** Literally, a possession of less than the whole or which lacks the quality of complete dominion. Technically, a possession of land involving a struggle with another claimant to maintain it or under such circumstances that such struggle appears imminent. 35 Am J2d Fore E & D § 18.

**incomplete trust.** See **executory trust.**

**inconclusive.** Not conclusive; subject to disproof; subject to rebuttal.

**in confidence.** In a confidential relationship; in secret and to be kept a secret.

**in confinio comitatus.** Within the boundary of the county.

It is said in Co. Litt. 154a that "for a common of pasture, of turbary, of piscary, of estovers and the like in one county, appendant or appurtenant to land in another county, in assize in confinio comitatus did lye at common law, and so it is of a nusans done in one county to lands lying in another county, the like assize did lye at common law." *Worster v Winnipiseogee Lake Co.* 25 NH 525, 532.

**in confusum.** See **mittere in confusum.**

**In conjunctivis oportet utramque partem esse veram.** In conjunctives it is necessary that each part should be true.

**in consequence of.** As the result of; because of. Tier-

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ney v Occidental L. Ins. Co. 89 Cal App 779, 265 P 400.

**in consequence of intoxication.** A clause found in dram-shop or civil damage acts, meaning that intoxication was the proximate cause, or at least a contributory cause, of the injury for which recovery may be had under such statute. 30 Am J Rev ed Intox L § 541.

**inconsequential error.** An error occurring on trial which perpetrates no injustice and denies no substantial right. 39 Am J1st New Tr § 28.

**in consideration inde.** In consideration thereof.

**in consideratione legis.** In consideration of law; in contemplation of law.

**in consideratione praemissorum.** In consideration of the premises.

**In consimili casu, consimiledebet esse remedium.** In a similar case, there ought to be a similar remedy.

**inconsistency.** Want of harmony or accord. The quality of being inconsistent. Want of harmony between two clauses of an instrument, as where there are conflicting descriptions in a deed of the property conveyed. 23 Am J2d Deeds § 237. Repugnancy in a pleading; an inconsistency between allegations such that one destroys the effect of the other. 41 Am J1st Pl § 47.

See **inconsistent counts; inconsistent defenses; repugnancy.**

**inconsistent.** Repugnant; not in harmony or accord. Contradictory of one another.

**inconsistent counts.** Causes of action pleaded which are repugnant to each other. 41 Am J1st Pl § 48.

**inconsistent defenses.** Defenses pleaded in an answer which disagree with one another. 41 Am J1st Pl § 48. Defenses which contradict each other or disprove each other, thus being mutually destructive. 41 Am J1st Pl § 163. Defenses which raise issues triable by different methods or by different courts. 41 Am J1st Pl § 163.

**inconsistent offices.** See **incompatible offices.**

**inconsistent pleading.** See **inconsistency; inconsistent counts; inconsistent defenses.**

**inconsistent position.** A position assumed in litigation directly contrary to one previously assumed by the party, constituting an estoppel in pais where he had, or was chargeable with, full knowledge of the facts and another will be prejudiced by his action. 28 Am J2d Estop § 68.

**inconsistent remedies.** For the purposes of the doctrine of election of remedies: two or more coexisting remedies available to the litigant at the time of the election which are repugnant and inconsistent, 25 Am J2d Elect R § 10; not, in reality, an inconsistency between the remedies themselves, but an inconsistency between a certain state of facts relied on as the basis of a certain remedy and another certain state of facts relied on as the basis of another remedy. *Brady v State Ins. Co.* 100 Neb 497, 160 NW 882.

Remedies are inconsistent when the right to any of them necessarily yields or concedes the right to another. *Crane v Atlanta & Lowry Nat. Bank*, 40 Ga App 83, 49 SE 58.

**inconsistent things.** Things which are opposed to each other. *Commonwealth v Staunton Mutual Tel. Co.* 134 Va 291, 114 SE 600.

**inconsistent verdict.** A verdict which is self-contradictory, as where, on a charge of conspiracy, one of the two defendants is convicted and the other is acquitted. *Sasser v United States (CA5 Ga)* 29 F2d 76.

**in conspectu ejus.** Within his view; in his sight.

**In consuetudinibus, non diuturnitas temporis sed soliditas rationis est consideranda.** In customs or usages, not lapse of time, but the soundness of the reason for their existence should be considered.

**inconsulto.** (Civil law.) Without being advised; inadvisedly; unintentionally.

**in contemplation of bankruptcy.** See **contemplation of bankruptcy.**

**in contemplation of death.** See **contemplation of death.**

**in contemplation of insolvency.** See **contemplation of insolvency.**

**in contempt.** The status of a person who has committed a contempt of court and who has not expiated his offense.

**incontestability provision.** A provision in a life insurance policy to the effect that the policy shall be incontestable from date or incontestable after a specified period, sometimes subject to express reservation of enumerated specific circumstances under which the provision shall not be operative, the effect of such a provision being to preclude the insurer from contesting the validity of the contract as such, the truthfulness of the answers to questions propounded to the applicant, and other matters ordinarily



constituting defenses, such preclusion, of course, being subject to the terms of the provision and the reservations contained therein. 29A Am J Rev ed Ins §§ 1107 et seq.

**incontestable clause.** See **incontestability provision.**

**incontinent.** Want of restraint, especially in sexual activity. 33 Am J1st L & S §§ 35 et seq.

**incontinenti.** Immediately; at once.

**In contractibus, benigna, in testamentis, benignior, in restitutionibus, benignissima interpretatio facienda est.** In contracts, a liberal, in wills, a more liberal, and in restitutions, a most liberal construction should be adopted.

**In contractibus, rei veritas potius quam scriptura perspici debet.** In contracts, the truth of the matter ought to be regarded as of more consequence than the writing.

**In contractibus, tacite insunt quae sunt moris et consuetudinis.** In contracts, matters of custom and usage are tacitly implied.

**In contrahenda venditione, ambiguum pactum contra venditorem interpretandum est.** In the negotia-

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tion of a sale, an ambiguous clause is to be interpreted or construed against the vendor.

**in control of a motor vehicle.** In control of the movement of a motor vehicle, whether by application of the power of the motor or by steering the vehicle while it is being towed or pushed by another vehicle. Anno: 47 ALR2d 585, § 5 [c].

**incontrovertible.** So clear and certain as not to admit of dispute. *McCreary v Skinner*, 75 Iowa 412, 413.

**inconvenience.** Disquiet; uneasiness; annoyance; trouble. *Jenson v Chicago, St. Paul, Minneapolis & Omaha R. Co.* 86 Wis 589, 57 NW 359.

**inconvenience of legal remedy.** Vexatious irritation, annoyance, or embarrassment consequent on a recourse to a court of law. *Cook v Carpenter*, 212 Pa 165, 61 A 799.

**inconveniences of trial.** Difficulties and burdens in transporting witnesses, taking depositions, transporting books and documents, employing local counsel, expenditures of time by the parties and the loss of time of their employees, the necessity of proving foreign law, and the possibility of the necessity of trial in another jurisdiction. 28 Am J Rev ed Inj § 224.

**inconvenient forum.** The doctrine that where the plaintiff could have brought the action in a court other than that in which he instituted the suit, in other words had a choice of forum, the court may, in the exercise of sound discretion, decline to assume or exercise jurisdiction of the case brought before it by the plaintiff, if it believes that the case may more conveniently, yet justly, proceed in another court before which the plaintiff may bring it after refusal of the exercise of jurisdiction by the court in which the action was first brought. 20 Am J2d Cts § 173.

**inconvenienti.** See **ab inconvenienti.**

**In conventionibus contrahentium voluntas potius quam verba spectari placuit.** In contracts, it is well to regard the intention of the parties rather than their mere words. *Jackson ex dem. Craigie v Wilkinson* (NY) 17 Johns 146, 150.

**Incorporalia bello non adquiruntur.** Incorporal things are not acquired in war.

**incorporalis.** Same as **incorporeal**.

**incorporamus.** We incorporate.

A formal word employed in the king's grant of a corporation charter. See 1 Bl Comm 473.

**incorporate.** To combine in one unit. To form a corporation.

See **incorporation**.

**incorporated.** Combined with something else. Made or formed as a corporation.

While the usual meaning of the term, as applied to an association of persons, imports that they have formed a corporation, as the word is used in a statute providing that every corporation, jointstock company or association "incorporated" under the laws of the state shall pay a specified tax, "incorporated" is not to be taken in a technical or restricted meaning and confined to an association brought into being according to the formality of a statute, but as including any combination of individuals upon terms which embody or adopt as rules or regulations of business the enabling provisions of the statutes. People, ex rel Platt v Wemple, 117 NY 136, 22 NE 1046.

**incorporated company.** A business or stock corporation, as distinguished from a charitable, religious, literary, or membership corporation. Catlin v Trinity College, 113 NY 133, 20 NE 864.

**incorporated territory.** A territory incorporated into the United States so as to be a part thereof. 49 Am J1st States § 4. Territory included in the incorporation of a municipality or added later to the municipality.

**incorporating state.** The state wherein a corporation was created by law and became an entity. 36 Am J2d For Corp § 85.

**incorporation.** The creation of a corporation whether directly by special legislative act, or by compliance with general laws. 18 Am J2d Corp §§ 24 et seq. An incorporated company; a corporation. The combining of one thing with another. The addition of a material to a building or other structure. 36 Am J1st Mech L § 72.

**incorporation by reference.** The doctrine that a will, duly executed and witnessed according to statutory requirements, may incorporate into itself by an appropriate reference a written paper or document which is in existence at the time of the execution of the will, irrespective of whether such document is one executed by the testator or a third person, whether it is executed and attested as a will, or whether it is in and of itself a valid instrument, provided the document referred to is identified by clear and satisfactory proof. 57 Am J1st Wills § 233. The permissible practice of referring to; and thereby making a part of one count or defense, the whole or a part of the allegations of another count or defense in the same pleading. 41 Am J1st Pl § 58. Making a map, plat, or writing a part of a deed by reference thereto in the deed, particularly for the purpose of furnishing a description of the property conveyed. 23 Am J2d Deeds § 232. Making prior certificates in an abstract of title a part of the last certificate by a reference in the latter. 1 Am J2d Abstr T § 20. Making a separation agreement a part of decree of divorce by reference thereto in the decree. 24 Am J2d Div & S § 907. Making an extraneous writing a part of a written contract by reference thereto in the contract in terms of making it a part of the contract. 17 Am J2d Contr § 263.

**incorporation fees.** Fees the payment of which is required by the constitutions and statutes of many states as a prerequisite to the exercise of corporate powers. 18 Am J2d Corp § 41.

**incorporation under general laws.** The usual method of incorporation, calling for compliance with statutes imposing requirements generally relative to the formation of a corporation and the exercise of powers thereby. 18 Am J2d Corp §§ 23 et seq.

**incorporation under special laws.** Acquiring corporate status under a special act conferring upon designated persons and their associates the right to be a corporation and exercise corporate powers. 18 Am J2d Corp § 26.

**incorporator.** Same as **corporator**.

**in corpore.** In body; in substance.

**incorporeal.** Having no body or substance; intangible; without physical existence.

**incorporeal chattel.** Same as **chose in action**.

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**incorporeal hereditament.** A right without the substance of a body but issuing out of a substance of real or personal property, such as rent issuing out of land, and capable of being inherited. 42 Am J1st Prop § 17.

**incorporeal property.** Property that has no corporeal tangible substance. *Transcontinental Oil Co. v Emmerson*, 298 111 394, 131 NE 645, 16 ALR 507. Intangibles without the substance of a body, but sometimes issuing out of corporeal property, which the law gives effect to as property by attaching to them certain sanctions enforceable in the courts. *Curry v McCanness*, 307 US 357, 83 L Ed 1339, 59 S Ct 900, 123 ALR 162.

See **chose in action; intangible; intangible property**.

**incorrigibility.** See **incorrigible child**.

**incorrigible child.** A child unmanageable by parents or guardians. *Annos*: 45 ALR 1533, 85 ALR 1099. A child incapable of being corrected or reformed in his present situation and under his present control. *Re Hook*, 95 Vt 497, 115 A 730, 19 ALR 610, 615.

See **delinquent children**.

**in course of employment.** See **in the course of employment**.

**in court.** Literally, one's presence during a session of court. Having appeared in an action in which named as a party. Having been subjected to service of legal process, so as to be bound by the proceedings in court.

See **day in court**.

**in crastino.** On the morrow; tomorrow.

**in crastino animarum.** On the morrow of all souls; a return day for writs in Michaelmas term at Westminster. See 1 Bl Comm 342.

**increase.** Verb: Deriving from the Latin "crescere"; to grow. To augment in size or in value. *Anno*: 32 ALR 854. Noun: Growth or augmentation; amount of growth.

See **accession; accretion; increase of livestock**.

**increase and fix.** A term found in statutes involving the salary of a public officer or employee; importing stability, not the power to decrease compensation. *Cochnow v United States*, 248 US 405, 63 L Ed 328, 39 S Ct 137.

**increase of capital.** An increase in the stated capital of a corporation the same involving a fundamental change in the corporation, and authorized only where the power to increase is expressly conferred by law. 18 Am J2d Corp § 226.

**increase of hazard.** Same as **increase of risk**.

**increase of livestock.** A term familiar in chattel mortgages covering livestock, particularly cattle. That which is added to the original stock by augmentation, or growth; produce; profit; interest; progeny; issue; offspring. *Stockyards Loan Co. v Nichols* (CA8 Okla) 243 F 511, 1 ALR 547, 551. Ordinarily, not inclusive of the wool grown on sheep. 15 Am J2d Chat Mtg § 68.

**increase of risk.** Something which increases the probability of the occurrence of the loss insured against under the terms of an insurance policy. Some alteration in or change in the situation or condition of the property insured which tends to increase the risk—something of duration, and not a casual change of a temporary character. *Angier v Western Assur. Co.* 10 SD 82, 71 NW 761.

**increase of shares.** See **increase of capital; natural increase of shares**.

**increment.** Increase; gain. The amount of increase or growth.

**incrementa.** Increments; increases.

**incrementum.** Increment; increase.

**increscitur.** (Latin.) The act of the appellate court in increasing the amount of damages awarded by the verdict, the defendant being put to the choice of accepting the increased verdict or having a new trial. 5 Am J2d A & E § 946.

**In criminalibus, probationes debent esse luce clariores.** In criminal cases, the proofs ought to be clearer than light.

**In criminalibus, sufficit generalis malitia intentionis, cum facto paris gradus.** In crimes, general malicious intent accompanied by an act of equal degree is sufficient. *Isham v State*, 38 Ala 213, 220.

**In criminalibus, voluntas reputabitur pro facto.** In criminal cases, the will will be taken for the deed.

**incriminate.** To charge with a crime. *Davis v State*, 51 Neb 301, 323, 70 NW 984. To make it appear that one is guilty of a crime.

**incriminating circumstance.** A circumstance which tends to show that a crime has been committed, or that some particular person committed it. *Davis v State*, 51 Neb 301, 323, 70 NW 984.

**incriminating statement.** An accusation in the presence of the accused. A statement by the accused which involves him in the crime charged.

See **self-incrimination**.

**incrimination.** The act of accusing or charging with the commission of a crime or of making it appear that one is guilty of a crime. Rendering a person liable to a criminal prosecution, as by giving or furnishing evidence against him. *Counselman v Hitchcock*, 142 US 547, 35 L Ed 1110, 12 S Ct 195.

**incrimination of self.** See **self-incrimination**.

**incroachment.** Same as **encroachment**.

**In cuius rei testimonium.** In witness of which transaction; in witness whereof.

**In cuius rei testimonium huic chartae (vel scripto) nostra sigilla apposuimus.** In witness whereof we have set our seals to this charter (or writing).

**inculpate.** To incriminate; to accuse a person of crime or fault.

**inculpatory.** Incriminatory; accusing.

**incumbent.** One who holds an office, particularly one who holds it under legal authority to discharge the duties of the office. *State v McCollister*, 11 Ohio St 46, 50.

**incumber.** Same as **encumber**.

**incumbrance.** Same as **encumbrance**.

**incumbrancer.** Same as **encumbrancer**.

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**incur.** To bring upon one's self. To become subject to liability by act or by operation of law. *Maryland Casualty Co. v Martin* (Tex Civ App) 289 SW2d 655.

**incurable.** Not curable; beyond the power and skill of medicine. Not susceptible of cure; applied to both patients and disease. *Freeman v State Board of Medical Examiners*, 54 Okla 531, 154 P 56.

**incurable disease.** A disease which is incurable according to the general state of knowledge of the medical profession at the time in question. *Freeman v State Board of Medical Examiners*, 54 Okla 531, 154 P 56.

**in curia.** In court.

**incuria.** Negligence; carelessness; absence of care.

**incuria dans locum injuriae.** Negligence at the place or locality of the injury. *Thomas v Quartermaine*, L. R. (Eng) 18 QBD 685.

**In curia domini regis, ipse in propria persona jura decernit.** In the king's court, the king himself in person, decides the cases.

**incurrumentum.** Liability to fine or amercement.

**incurred.** See **incur**.

**in currency.** In any kind of money in circulation and constituting legal tender. 40 Am J1st Paym § 58.

**in current funds.** In funds equal in value to the current coin of the country, such as is received and paid on debts, in the purchase of property, and in ordinary business transactions, at par, and without discount. 40 Am J1st Paym § 58.

**in custodia legis.** See **custodia legis; custody of the law.**

**in custody.** In jail or prison. Under the direct or indirect restraint of an officer of the law armed with authority to restrain.

A prisoner who is at large on bail is not in custody, but, although a prisoner to whom a parole has been granted is permitted to go and remain at large under the supervision of the court, he is held to be in custody. *Carpenter v Lord*, 88 Or 128, 171 P 577.

**in damno.** In damage; doing damage.

**inde.** Thence; from there; from that place; from thence; then; thereupon; from that time.

**indebitatus.** Indebted.

**indebitatus assumpsit.** Being indebted, he undertook. A common-law form of action. In its specific sense, that form of assumpsit which is available for the recovery of any simple common-law debt without regard to any express promise to pay the debt; in its enlarged sense, a remedy embracing all cases in which the plaintiff has equity and conscience on his side and the defendant is bound by ties of natural justice and equity to pay the money, even being applied to all the common counts, namely the quantum counts, the money counts, and the count upon an account stated. 1 Am J2d Actions § 13.

**indebitatus nunquam.** Never indebted.

**indebiti solutio.** An undue payment, that is, the payment of that which is not due or owing.

**indebitum.** Not due; not owing.

**indebitus.** Not owed; not due.

**indebted.** Obligated to make a payment for money, property, or services. Obligated upon a debt, although not necessarily a debt due.

As the word appears in a statute prescribing the contents of an affidavit for attachment, to say that a "debt" is due means that it is presently owing and due; to state that a defendant "is indebted" is not the equivalent of saying that he owes a debt which is due. 6 Am J2d Attach § 264.

See **debt; deeply indebted; mutually indebted.**

**indebtedness.** The aggregate of a person's debts. A single debt. The state of being obligated upon a debt or debts. For the purpose of deducting interest in computing net income for tax purposes:—an unconditional obligation. *Gilman v Commissioner* (CA8) 53 F2d 47, 80 ALR 209; *Johnson v Commissioner* (CA8) 108 F2d 104.

The term in former constitutional or statutory provisions imposing personal or superadded liability upon stockholders of a corporation was said not to include a claim for unliquidated damages. 19 Am J2d Corp § 779. As the word appears in a constitutional provision limiting the amount of indebtedness of a municipal corporation:—every obligation contracted for which there is no present means of payment. 38 Am J1st Mun Corp § 410.

Tax liabilities have frequently been held included in agreement for assumption or payment of another's indebtedness. Anno: 4 ALR2d 1315.

See **bonded indebtedness; debt; involuntary indebtedness.**

**indebtedness of decedent.** For the purpose of a deduction from the estate in determining an estate or inheritance tax; debts of the decedent allowed in the administration proceeding, not including expenses of administration. 28 Am J Rev ed Inher T § 387.

See **claim against decedent's estate.**

**indecenty.** A state of being indecent, some forms being punishable as criminal offenses. 33 Am J1st Lewd etc. § 3.

See **indecent.**

**indecent.** Lewd, lascivious, obscene, grossly vulgar, unbecoming, unseemly, unfit to be seen or heard, or violating the proprieties of language or behavior. 33 Am J1st Lewd etc § 3. Not decent; unfit to be seen or heard. *United States v Bebout* (DC Ohio) 28 F 522, 524. The characterization of an act which is a violation of modesty or an offense to delicacy, such as an exhibition of obscene pictures or the exhibition of one's naked body in public. *Timmons v United States* (CA6 Ohio) 85 F 204, 205; *McJunkins v State*, 10 Ind 140, 144.

See **indecenty.**

**indecent assault.** The act of a man in taking indecent liberties with the person of a female, such as fondling her in a lewd and lascivious manner. 6 Am J2d Asslt & B § 41. An indecent proposal followed by actual or attempted physical contact. *Lynch v Commonwealth*, 131 Va 762, 109 SE 427. The act of a man in taking indecent liberties with another man. 6 Am J2d Asslt & B § 42. Taking indecent liberties with the person of a child. *Tidd v Skinner*, 225 NY 422, 122 NE 247, 3 ALR 1145.

See **indecent proposal.**

**indecent exposure.** An exposure of the person in such manner and at such time and place as to offend against public decency, occurring by intent or by recklessness from which an intent may be inferred.

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Anno: 93 ALR 998. Exposing another person in an indecent or compromising attitude. 33 Am J1st Lewd etc § 6.

An indecent exposure of the person committed once does not constitute the common-law offense of committing or maintaining a public nuisance, but the latter offense is committed by continuous and repeated exposures on the public streets thereby creating a more or less existing condition prejudicial to the sense of decency. *Nuchols v Commonwealth*, 312 Ky 171, 226 SW2d 796, 13 ALR2d 1478.

**indecent gesture.** A movement of the body or some portion of the body in a manner which is obscene or suggestive of obscenity. A method of interrupting and disturbing a public meeting or assembly. 24 Am J2d Disturb M § 5.

**indecent language.** Language which is obscene, profane, or shocking to the moral sense.

**indecent proposal.** A proposal made directly or Indirectly for unlawful or improper sexual relations. *Barbknecht v Great Northern R. Co.* 55 ND 104, 212 NW 776.

**indecimable.** Non-titheable; not liable to the payment of tithes.

**Inde datae leges ne fortior omnia posset.** Laws were made lest the stronger might become all powerful.

**in deed.** In fact.

See **possession in deed.**

**indefeasible.** Not to be defeated or avoided.

**indefeasibly vested.** Vested and not subject to divestiture. *Keepers v Fidelity Title & D. Co.* 56 NJL 302, 28 A 585.

**indefensus.** Not defended; not denied; a defendant who does not plead.

**indefinite award.** An award of arbitrators which leaves open the possibility or probability of future disputes and litigation. 5 Am J2d Arb & A § 151.

**indefinite contract.** A term appearing in some teachers' tenure statutes; the right of a permanent teacher upon the expiration of his or her contract, such being a protected contractual right entitling the teacher to a succession of definite contracts having terms in accord with and meeting the requirements of other statutes governing teachers' contracts. *Lost Creek School Twp. v York*, 215 Ind 636, 21 NE2d 58.

**indefinite failure of issue.** A failure of issue whenever it shall happen, sooner or later, without any definite period within which it must happen. *Downing v Wherrin*, 19 NH 9. A period when the issue or descendants of the first taker become extinct and when there is no longer any issue of the issue of the grantee, without reference to any particular time or any particular event. 28 Am J2d Est § 363. Death without issue of the last descendant of the devisee. 57 Am J1st Wills § 1238.

See **die without issue.**

**indefinite imprisonment.** The punishment of imprisonment prescribed by a sentence for crime, the term of which is fixed or rendered calculable by neither the sentence nor statute. 21 Am J2d Crim L § 534.

A sentence prescribing imprisonment until a fine, the amount of which is specified, is paid, does not prescribe an indefinite imprisonment, because, under it, there need be no imprisonment at all. *Ex Parte Bryant*, 24 Fla 278, 4 S 854.

See **indeterminate sentence.**

**indefiniteness.** The quality of not being sufficiently specific.

**indefiniteness of pleading.** Want of certainty of allegation, a defect constituting a ground of attack upon the pleading by motion or demurrer in accordance with the practice of the jurisdiction. 41 Am J1st Pl §§ 30 et seq.

**indefinite sentence.** See **indefinite imprisonment; indeterminate sentence.**

**Indefinitum aequipollet universali.** That which is unlimited is equivalent to the whole.

**Indefinitum supplet locum universalis.** The undefined supplies the place of the whole.

**indelicacy.** Want of tact, good taste, or good manners, but not necessarily immorality. 33 Am J1st L & S § 46.

**in delicto.** In fault; in the wrong. In the wrong, although not in equal wrong with the other party. 37 Am J2d Fraud § 304.

See **in pari delicto.**

**indemnatus.** Uncondemned.

**indemnification.** The act of indemnifying; being indemnified. Payment made by way of compensation for a loss suffered.

See **indemnify; indemnity.**

**indemnificatus.** Indemnified.



**indemnify.** To save harmless; to secure against future loss or damage; to give indemnity. To recompense for a past loss. 27 Am J1st Indem § 2.

See **indemnity**.

**indemnify and save harmless.** See **to indemnify and save harmless**.

**indemnifying bond.** See **indemnity bond**.

**indemnis.** Undamaged; unharmed; harmless.

**indemnitee.** One for whose benefit a contract of indemnity is made; one whom another is under obligation to indemnify.

**indemnities.** In common usage, the plural of **indemnity**. A technical term of the grain market or board of trade.

For many years prior to August 24, 1921, members of grain exchanges bought and sold in large quantities agreements for contracts for purchase or sale of grain subject to acceptance within a definite time thereafter, commonly known as "indemnities." When the holder of one of these elected to exercise his rights, the specified amount of grain was bought and sold on the exchange indicated for future delivery, and the agreement was thus finally consummated. By far the larger percentage of such agreements were subject to acceptance during the following day at a price ordinarily within one fourth of a cent of the price prevailing when the market closed on the day of the agreement. During many years the uniform consideration paid was one dollar per thousand bushels. *Trusler v Crooks*, 269 US 475, 481, 70 L Ed 365, 367, 46 S Ct 165.

**indemnitor.** One who indemnifies another; one upon whom there rests an obligation to indemnify or save another from a legal consequence of the conduct of

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one of the parties to the obligation or of some other person. 27 Am J1st Indem § 2.

**indemnity.** A term inclusive of two primary concepts: (1) compensation in money or property for a loss suffered; (2) a contract to save another from the legal consequences of the conduct of one of the parties or of a third person. Also inclusive in a proper sense of the security by way of deposit or bond furnished for the performance of an undertaking to save another harmless. *Builders Supply Co. v McCabe*, 366 Pa 322, 77 A2d 368, 24 ALR2d 319; 27 Am J1st Indem § 2. An obligation or duty resting on one person to make good any loss or damage another has incurred while acting at the request of the former or for his benefit. 27 Am J1st Indem § 2. The right of one who has been compelled to pay that which another person should have paid. Security to protect against loss in assuming a status such as that of a guarantor or surety. From the standpoint of an insurance contract:-the stipulated desideratum to be paid to the insured in case he suffers loss or damage through the risk specified and covered by the contract. *Physicians' Defense Co. v Cooper* (CA9 Cal) 199 F 576.

**indemnity and guaranty.** Two distinct undertakings, in that a guaranty is a collateral undertaking, and presupposes some contract or transaction to which it is collateral, while an indemnity is essentially an original contract. *Anderson v Spence*, 72 Ind 315.

**indemnity belt.** The designated strip or belt of land from which indemnity lands may be selected. *Elling v Thexton*, 7 Mont 330, 338, 16 P 931, 933.

See **indemnity lands**.

**indemnity bond.** A bond to indemnify the obligee or indemnitee against loss from the conduct of the obligor or indemnitor or from the conduct of a third person. 12 Am J2d Bonds § 1. A bond, the condition of which is the indemnification of the obligee

against loss from the inurrence of liability from an act, for example a bond indemnifying a sheriff in seizing and holding property claimed by a person other than the defendant under the process with which the sheriff is armed. 30 Am J2d Exec § 752.

Where the legislature in licensing occupational groups, requires a bond as a part of the general scheme of protection of the public, the bond is an indemnity rather than a penal bond. *Anchor Casualty Co. v Commissioner of Securities*, 259 Minn 277, 107 NW2d 234.

**indemnity contract.** A contract whereby one agrees to save another from the legal consequence of the conduct of one of the parties or of some other person. 27 Am J1st Indem § 2.

See **indemnity; indemnity bond.**

**indemnity for damage to the person.** Compensation for everything then on, about, or belonging to the person, as well as for all bodily injuries which are proved to be the result of the accident. *Woodman v Nottingham*, 49 NH 387.

**indemnity insurance.** Insurance under a policy providing indemnification for actual loss or damage suffered by the insured (*Shealey v American Health Ins. Corp.* 220 SC 79, 66 SE2d 461, 27 ALR2d 942) as distinguished from insurance, particularly insurance under a policy covering a life, which provides for the payment of a specified sum upon the occurrence of the event insured against without reference to what the actual loss or damage arising from the event may be. 29 Am J Rev ed Ins § 4. A policy of insurance protecting the insured against loss due to injuring the property or person of a third person, under which the insurer does not become liable to the insured until the latter has sustained an actual loss in the discharge of liability to the third person, being distinguished in this respect from a liability policy under which the liability of the insurer attaches when the liability of the insured attaches, notwithstanding the insured has not sustained a loss in payment, voluntary or involuntary, made to the third person. 7 Am J2d Auto Ins § 81; 29A Am J Rev ed Ins § 1343.

**indemnity lands.** Lands which, by statute, are allowed to be selected by the grantee under a grant in aid of railroad construction, in lieu of parcels lost from the designated or granted lands by previous disposition or reservation. 42 Am J1st Pub L § 49.

See **indemnity belt.**

**indemnity mortgage.** A mortgage executed to indemnify the mortgagee against future loss.

A mortgage given to secure future advances which may be made by the mortgagee to the mortgagor is such a mortgage. *Lawrence v Tucker (US)* 23 How 14, 16 L Ed 474.

**indemnity policy.** See **indemnity insurance.**

**indemnity provision.** A provision in a building or construction contract or subcontract whereby the contractor or subcontractor, as indemnitor, agrees to indemnify or hold harmless the owner or principal contractor, as the case may be, for injuries resulting from the indemnitor's own negligence. 13 Am J2d Bldg Contr § 141.

**indempnis.** Same as **indemnis.**

**indenization.** Same as **denization.**

**indent.** To prepare a deed or an agreement in the form of an indenture. To enter into articles of apprenticeship.

See **indenture.**

**indented deed.** See **indenture.**

**indenture.** In modern sense, a deed executed by both grantor and grantee or all parties to the instrument. The term derives from an old practice of actually "indenting" the deed executed by both grantor and grantee or all parties to the instrument. *Sterling v Park*, 129 Ga 309, 58 SE 828. Anciently, deeds of indenture were deeds which were made in two parts formed by cutting or tearing a single sheet across the middle in a jagged or indented line, so that the two parts might be subsequently matched, and they were executed by both grantor and grantee. Later the indenting was discontinued, yet the term came to be applied to all deeds which were executed by both parties. See 2 Bl Comm 295.

**indenture of apprenticeship.** A contract executed in duplicate by which an apprentice becomes bound to the service of a master.

See **apprentice; articles of apprenticeship.**

**indenture of fine.** The indenture of the foot of a fine.

The fifth step, or concluding part, of a fine for the alienation of land included the whole proceeding, reciting the parties, day, year, and place, and before whom the fine was levied or acknowledged. Indentures of this were made, or engrossed at the chirographer's office, and delivered to the cognizor or cognizee; usually beginning, "haec est finalis concordia," this is the final agreement, and then reciting the whole proceeding at length. See 2 Bl Comm 351.

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**indenture of trust.** See **trust indenture.**

**indenture trustee.** The trustee named in an indenture which creates a trust.

**independence.** The state of being free from the control of another. The state of a country free from and unfettered by control exercised by another nation.

See **Declaration of Independence.**

**Independence Day.** July Fourth, a national holiday of the United States in celebration of the adoption of the Declaration of Independence on July Fourth, 1776.

**independent advice.** As a statutory condition precedent to the validity of a legacy or devise to a person in a fiduciary or confidential relationship toward the testator:—advice given to the testator by one with whom the testator had a full and private conference respecting such legacy or devise before the preparation and execution of the will, who was not only competent to inform him correctly as to its legal effect, but who was, furthermore, so disassociated with the interests of the legatee or devisee as to be in a position to advise with the testator impartially and confidentially as to the consequences to himself of his proposed benefaction. *Post v Hagan*, 71 NJ Eq 234, 65 A 1026.

**independent adjuster.** An adjuster of claims against insurance companies, who usually represents the company, although, at times, the insured, occupying in neither instance the status of a regular employee of his principal.

**independent candidate.** A candidate for public office, entitled by virtue of having been legally nominated to have his name on the ballot, but who is not the nominee of any existing political party. *Stanfield v Kozer*, 119 Or 324, 249 P 631.

**independent condition.** A condition in a contract which can be enforced without showing the performance of any other condition. 17 Am J2d Contr § 322.

**independent consideration.** A consideration furnished a guarantor other than that furnished the principal debtor. 24 Am J1st Guar § 49.

**independent contract.** A contract, the enforcement of which does not depend upon the performance of any other contract. The engagement made by an independent contractor for the performance of services.

See **independent contractor.**

**independent contractor.** One who, exercising independence in respect of his choice of work to be performed by him, contracts to do or perform certain work for another person according to his own means and methods, without being subject to the control of such other person except as to the product or result of the work. *NLRB v Steinberg* (CA5) 182 F2d 850; *United States Fidelity & G. Co. v Spring Brook*, 135 Conn 294, 64 A2d 39, 13 ALR2d 769; *Hammond v El Dorado Springs*, 362 Mo 530, 242 SW2d 479, 31 ALR2d 1367; *Gomillion v Forsythe*, 218 SC 211, 62 SE2d 297, 53 ALR2d 169; *Hanks v Landert*, 37 Wash 2d 293, 223 P2d 443, 30 ALR2d 1012. Not a "laborer" for the purposes of a statutory exemption. 31 Am J2d Exemp § 20.

The principal test in determining whether one rendering services for another is an independent contractor is whether the employer has the right to control the details of the work, although the place of the work, the time of the employment, the method of payment, and the right of summary discharge, are also to be considered. *Huebner v Industrial Com.* 234 Wis 239, 290 NW 145, 126 ALR 1113.

**independent covenant.** A covenant which relates to only a part of the consideration upon both sides of a contract or deed, is of such nature that a breach may be compensated in damages, and for the breach of which an action may be maintained without an averment by the plaintiff of performance or an offer to perform on his part. 20 Am J2d Cov § 8; 55 Am J1st V & P § 102.

See **independent promises.**

**Independenter se habet assecuratio a viaggio navis.** Insurance of the voyage is independent of the voyage of the ship.

"If a ship sails on a voyage from Saint Maio to Toulon, and is insured from Saint Maio to Cadiz, the latter is the voyage insured, but the former is the voyage of the ship." See 3 Kent Comm 318, footnote.

**independent executor.** The executor named to execute a will without administration in the probate court, thus avoiding the usual costs of regular administration. 21 Am J2d Ex & Ad § 824.

**independent fires.** Fires started by different causes, as where one is traceable to a person and the other attributable to some unknown or irresponsible origin. 35 Am J2d Fires § 40.

**independent intervening cause.** A cause which operates in succession to and independent of a prior wrong as a proximate cause of an injury. *Ft. Worth & D. C. R. Co. v Smithers* (Tex Civ App) 228 SW 637.

**independently engaged.** For the purposes of an exception to a provision for unemployment compensation, a business or trade established and conducted independently of an employer. *Fuller Brush Co. v Industrial Cont.* 99 Utah 97, 104 P2d 201, 129 ALR 511.

**independent promises.** The mutual promises of the parties to a contract so plainly independent of each other that the one can never by fair construction be a condition of the performance of the other. 17 Am J2d Contr § 322.

Courts will not and ought not to construe promises as independent unless no other construction is possible and such construction appears to have been the deliberate intention of the parties at the time the instrument was executed. *Palmer v Fox*, 274 Mich 252, 264 NW 361, 104 ALR 1057; *Summer v Fabregas*, 52 NJ Super 399, 145 A2d 659.

See **independent covenant.**

**independent school district.** A school district which has not been consolidated with any other school district. See *Harp v Consolidated School Dist.* 115 Okla 48, 241 P 787. A school district whose affairs are administered independently of a school township, ordinarily conterminous with, or located in, a city or village.

**independent stipulation.** See **independent covenant; independent promises.**

**independent tortfeasors.** Tortfeasors who injured the same person or the same property but who acted without common design or concert of action and in the absence of any circumstance, such as common duty, joint enterprise, or relationship, which

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would make them joint tortfeasors. *Husky Refining Co. v Barnes* (CA9 Idaho) 119 F2d 715.

**inde petit judicium.** See **et inde petit judicium.**

**inde producit sectam.** See **et inde producit sectam.**

**in descendu.** By descent.

**indeterminate.** Uncertain; not ascertained; not fixed; not made certain.

**indeterminate damages.** A little-used and unsatisfactory term for punitive or exemplary damages.

**indeterminate permit.** A kind of franchise granted public service corporations, provided for by statute in some jurisdictions, to continue in force until such time as the municipality shall exercise its option to purchase as provided by the statute. *Superior Water, Light & Power Co. v Superior*, 263 US 125, 132, 68 L Ed 204, 209, 44 S Ct 82.

**indeterminate sentence.** A sentence imposed for a crime, not for a precise period of time, but in terms of a minimum period and a maximum period of imprisonment as provided by statute for the particular offense. 21 Am J2d Crim L § 540.

**index.** Titles or subjects with lines thereunder in brief form suggestive of subject matter, all in alphabetical order, and so prepared and arranged as to point out the page, or volume and page in case of a multi-volume work, where the discussion of a particular point or bit of subject matter may be found.

**Index animi sermo.** Speech is the index of the mind.

Where a law is plain and unambiguous whether it is expressed in general or limited terms, the legislature should be understood to mean what they have plainly expressed, and consequently no room is left for construction. Where the intention is clearly ascertained, the courts have no other duty to perform than to execute the legislative will, without any regard to their own views as to the wisdom or justice of the particular enactment. *Shellenberger v Ransom*, 41 Neb 631, 59 NW 935.

**index on appeal.** See **index to transcript of record.**

**index to judgments.** See **judgment index.**

**index to records of title.** An index of instruments of title recorded or filed in the office of clerk of court, registrar of titles, or county recorder, usually under the names of both grantor and grantee, mortgagor and mortgagee, lienor and lienee, pointing out the book and page of the records of title upon which a particular instrument is recorded or the file in which a particular instrument is filed. 45 Am J1st Reeds § 72.

An index to the record of an instrument is the means provided for pointing out or indicating where the record may be found. It may in many cases be indispensable in order to secure the full benefit of the record to the public. But its office is to

facilitate the researches of those having occasion to examine the records; and strictly, in the absence of statute, it cannot be said to form part of the record. *Green v Garrington*, 16 Ohio St 548.

Where the statute makes the indexing part of the record, the record is not complete as to notice if the index is not properly made. *Re Labb* (DC NY) 42 F Supp 542.

**index to transcript of record.** A convenience for the appellate court required by rule of court in some jurisdictions. 4 Am J2d A & E § 406.

**Indian.** A member of the aboriginal race which inhabited the continents of North America and South America at the time of the discovery by Columbus. 27 Am J1st Indians § 2. A word descriptive of race, that is, the red race, so that a white man or negro does not become an "Indian" by adoption into an Indian tribe. 27 Am J1st Indians § 2. In a meaning secondary in the United States, a person of India. If born or naturalized in the United States, a citizen of the United States and of the state wherein he resides. 3 Am J2d Aliens § 116.

See **mestizo; mixed blood; pueblo dwellers; reservation Indians.**

**Indian adoption.** An adoption of a child in pursuance of a tribal custom. *Non-She-Po v Wa-Win-Ta*, 37 Or 213, 62 P 15. Adoption of a person by a tribe of Indians, having the effect of bestowing on the person adopted the privileges and immunities of the other members and subjecting him to the laws and usages of the tribe. 27 Am J1st Indians § 2.

**Indian Affairs Bureau.** A federal agency in the Department of the Interior, headed by the Commissioner of Indian Affairs who is appointed by the President by and with the advice and consent of the Senate, the purpose of the agency being to facilitate and simplify the administration of the laws governing Indian Affairs. 25 USC §§ 1, 1a.

**Indian agent.** A United States government officer who lives on or near an Indian reservation as the representative of the government in its relations with the tribe and whose duty it is to serve the interests of the Indians of the tribe.

**Indian allotment.** A conveyance of land by the United States to an individual Indian, usually the head of a family, made in pursuance of a policy adopted in reference to the Indians. 27 Am J1st Indians § 27. A term also applied to any allotment of land to Indians, the title of which is held in trust by the United States or which remains inalienable without the consent of the United States. 27 Am J1st Indians § 45.

**Indian band.** A company of Indians, not necessarily, though often, of the same race or tribe, united under the same leadership in a common design. *Connors v United States*, 180 US 271, 45 L Ed 525, 21 S Ct 362.

**Indian chief.** The leader of a tribe. That officer of an Indian nation, such as the Cherokee Nation, who discharges the duties which usually pertain to the office of governor. *Whitsett v Forehand*, 79 NC 230, 233.

**Indian country.** The territory formerly held by Indians and to which their title remains unextinguished, also any tract of land, which, being a part of the public domain, is lawfully set apart as an Indian reservation, and also any Indian allotment, the title of which is held in trust by the government or which remains inalienable by the allottee without the consent of the United States. 27 Am J1st Indians § 45.

**Indian divorce.** A divorce of husband and wife married and continuing to live in Indian territory, in accordance with established custom among the Indian tribe, effected completely by separation by mutual consent. 24 Am J2d Div & S § 8. A divorce in accordance with tribal custom, effected by mutual consent or the abandonment of one spouse by the other. *Cyr v Walker*, 29 Okla 289, 116 P 934.

**Indian lands.** Lands allotted to and in the possession

of an Indian tribe. Lands reserved under acts of Congress for occupancy by Indian tribes. *United States v Powers*, 305 US 527, 83 L Ed 330, 59 S Ct 344. Lands held in trust for Indians by the United States. *McCurdy v United States*, 264 US 484, 68 L Ed 801, 44 S Ct 345. Lands owned by the United States and subject to sale by it, but in the manner and for the purposes provided for in the special agreements of the government with the Indians. *Ash Sheep Co. v United States*, 252 US 159, 166, 64 L Ed 507, 511, 40 S Ct 241. Lands to which Indians have a right of perpetual occupancy with the privilege of using them in such manner as they see fit until such right of occupation has been surrendered to the United States, the fee of such land being vested in the United States. 27 Am J1st Indians § 24.

See **Indian title**.

**Indian maize.** See **corn**.

**Indian marriage.** A marriage contracted by members of an Indian tribe, who are living with the tribe in tribal relation and subject to the tribal government, in accordance with the laws and customs of the tribe. 35 Am J1st Mar § 40.

**Indian nation.** A large tribe of Indians, or a group of affiliated tribes, as, bear witness, the Iroquois, 27 Am J1st Indians § 6.

**Indian reservation.** Land set apart from the public domain by treaty or executive order for perpetual occupancy by Indians or until the right of occupation has been surrendered to the United States. 27 Am J1st Indians § 24.

See **reservation Indians**.

**Indian territory.** A former territory, now a part of the state of Oklahoma.

See **Indian country**.

**Indian title.** By virtue of prior occupancy of the continent of North America, at best, nothing more than a right of occupancy. *Northwestern Bands of Shoshone Indians v United States*, 324 US 335, 89 L Ed 985, 65 S Ct 690; nothing more than permissive occupancy; not a title which could be conveyed so as to transfer to the grantee a title which the United States was bound to recognize. *Johnson and Graham's Lessee v M'Intosh (US) 8 Wheat 543, 574, 5 L Ed 681, 688*. A right not beyond that of permissive occupancy, except as Congress might recognize a right of permanent occupancy not to be disturbed. *Tee-Hit-Ton Indians v United States*, 348 US 272, 99 L Ed 314, 75 S Ct 313.

The right of Indians to occupy lands in the United States over which they had sovereignty prior to conquest by the white man is not a property right but amounts to a right of occupancy which the sovereign grants and, although protecting against intrusion by third parties, may terminate; such lands may be fully disposed of by the sovereign itself without any legally enforceable obligation to compensate the Indians. *Tee-Hit-Ton Indians v United States*, 348 US 272, 99 L Ed 314, 75 S Ct 313.

Exclusive title to American lands passed to the white discoverers subject to the Indian title, with power in the white sovereign alone to extinguish that right by purchase or conquest. *Northwestern Bands of Shoshone Indians v United States*, 324 US 335, 89 L Ed 985, 65 S Ct 690.

**Indian treaties.** Treaties made and entered into between the various American Indian tribes and the United States. *Worcester v The State of Georgia (US) 6 Pet 515, 8 L Ed 483*.

**Indian tribe.** A body of Indians, united in a community under one leadership or government, and inhabiting a particular territory. 27 Am J1st Indians § 4.

See **commerce with the Indian tribes; Indian adoption**.

**Indian tribe member of adoption.** See **Indian adoption**.

**Indian war.** A war in which American Indians engaged the whites. 27 Am J1st Indians § 12.

**indicate.** To indicate; to designate; to show; to declare; to make known; to reveal.

**indication.** Something which points to, or gives direction to the mind. Coyle v Commonwealth, 104 Pa 117, 133.

**indicavit.** A writ of prohibition which a person who was sued in the ecclesiastical court might obtain. State v Commissioners of Roads, 8 SCL (I Mill Const) 55.

**indicia.** Plural of **indicium**.

**indicia of ownership.** Evidence of title; as, a deed to land, or a bill of sale of personal property.

**indicium.** A mark; a sign; a token; a symbol; a disclosure; a thing furnishing information.

**indicia of fraud.** Badges of fraud; circumstances such as insolvency, or heavy indebtedness on the part of a grantor, and lack of consideration which indicate, in the absence of explanation to the contrary, that a conveyance was made in fraud of creditors. 24 Am J1st Frd Conv § 14.

**indict.** To charge one with the commission of a crime by an indictment.

See **indictment**.

**indictable.** Subject to indictment; as, a person who has committed a felony. The proper subject of an indictment; as, an offense amounting to felony.

**indictable attempt.** A direct ineffectual act performed intentionally toward the commission of an indictable offense. Commonwealth v Crow, 303 Pa 91, 154 A 283. Broadly, any attempted offense subject to prosecution by indictment under the law of the jurisdiction.

**indictable nuisance.** A common law offense against the public peace, the public health, or the public morals. State v Waymire, 52 Or 281, 97 P 16. A public, as distinguished from, a private nuisance. 39 Am J1st Nuis § 178.

**indictable offense.** A crime to be prosecuted under an indictment; in some jurisdictions, any felony. In some jurisdictions, any felony and any misdemeanor of a certain class, particularly a misdemeanor of a serious nature. State v Berlin, 42 Mo 572, 576. At common law, treason, a capital offense, or a felony. 27 Am J1st Indict § 5.

**indictare.** To indict.

**indicted.** Charged with the commission of a crime by the filing of an indictment or an information of weight equal to an indictment under the law of the jurisdiction. United States v Borger (CC NY) 7 F 193, 196.

**indictee.** A person against whom a grand jury has returned an indictment.

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**indictio.** An indictment; a proclamation; a declaration.



**indictment.** An accusation or charge of the commission of an indictable offense, made in writing by a grand jury against one or more persons upon evidence heard by the grand jury and presented by them under oath at the instance, and by the authority, of the state or the government. *State v Hamilton*, 133 W Va 394, 56 SE2d 544, 12 ALR2d 573.

See **indictable offense; information.**

**Indictment de felony est contra pacem domini regis, coronam et dignitatem suam, in genere et non in individuo; quia in Anglia non est interregnum.** An indictment for felony reads "against the peace of our lord the king, his crown and dignity," in general, and not against the king individually, because in England there is no interregnum.

**indictment for wrongful death.** A form of proceeding formerly authorized by statute in some states for the recovery of damages for death by wrongful act.

These statutes have been everywhere superseded by laws modeled on Lord Campbell's Act allowing a civil action. 22 Am J2d Dth § 2.

**indictor.** A person who causes another to be indicted.

**in diem.** For a day; on a day; at a day.

See **de die in diem.**

**indifferent.** Neutral as to the parties or subject-matter involved in a dispute, controversy, or litigation; impartial; unbiased.

**indifferent person.** One without interest in favoring either party to an action or in doing anything to the prejudice of either party. 45 Am J1st Rec § 131. A person so situated with reference to certain other persons that there is not such a relation between him and them as could bias his mind and induce him to act with partiality. *Mitchell v Kirtland*, 7 Conn 228, 231.

**indigena.** A native subject or a subject who has been naturalized.

**indigent.** In need; in want of a comfortable subsistence; poor.

**indigent person.** One destitute of property or means of comfortable subsistence. *Juneau County v Wood County*, 109 Wis 330, 333, 85 NW 387. A poor person. A pauper. *Risner v State*, 55 Ohio App 151, 9 NE2d 151; *Lynchburg v Slaughter*, 75 Va 57, 62. A person who has no money or property, or insufficient money or property available for his immediate relief from want, is without credit, and is unable to maintain himself because of inability to work or to obtain employment. 41 Am J1st Poor L § 17. A person who has neither money nor estate, is without credit, and is unable to maintain himself because of inability to work or to obtain employment. 41 Am J1st Poor L § 17.

**indigent relief.** See **poor relief.**

**indigestion.** A physical condition of the body resulting from the inability of the stomach to change its content of food to a form capable of assimilation. Not a serious disease within the meaning of an application for life or accident insurance. 29 Am J Rev ed Ins § 745.

**indignity.** Insult; an affront to one's sensibilities. An affront to self respect. Conduct humiliating to another. A matter of compensatory, rather than punitive or exemplary, damages. 22 Am J2d Damg § 197. Unmerited contemptuous conduct; any act towards another which manifests contempt for him; contumely, incivility or injury accompanied with insult and amounting to a species of cruelty to the mind. *Lynch v Lynch*, 87 Mo App 32, 37. As a ground for divorce under some statutes: humiliating and degrading conduct of such a character and continuity as to manifest a settled hate and estrangement, or to render the plaintiff's condition intolerable and life burdensome. *Kranch v Kranch*, 17 Pa Super 169, 84 A2d 230.

See **outrage and indignity; personal indignity.**

**indirect.** Not direct, circuitous, as an indirect road. Not leading to the fulfillment of a purpose by the plain and obvious course, but obliquely or by remote means; roundabout; not resulting directly from an act or cause, but more or less remotely connected with or growing out of it. *Maryland Casualty Co. v Scharlack* (DC Tex) 31 F Supp 931.

**indirect bounty.** A bounty indirectly paid by the government by the remission of taxes upon the exportation of articles which are subjected to a tax when sold or consumed in the country of their production, of which the laws permitting distillers of spirits to export the same without payment of internal revenue tax or other burden, is an example. *Downs v United States*, 187 US 496, 502, 47 L Ed 275, 277, 23 S Ct 222.

**indirect contempt.** An act committed elsewhere than in the presence of the court or judge, which tends to obstruct the administration of justice, or to bring the court, or judge, or the administration of justice into disrespect. *Re Dill*, 32 Kan 668, 5 P 39; *Osborne v Purdome* (Mo) 244 SW2d 1005, 29 ALR2d 1141. An act committed, not in the presence of the court, but at a distance from it, generally characterized by disobeying or resisting process, intimidating a witness out of the presence of the court, making a false report of a proceeding pending before the court, etc. *La Grange v State*, 238 Ind 689, 153 NE2d 593, 69 ALR2d 668. Sometimes referred to as constructive contempt.

**indirect corporate purpose.** A purpose which does not in its direct and immediate consequences operate upon the corporators, but the beneficial effects of which are to be experienced in a remoter degree, and which have to be traced to their source before they can be duly comprehended and appreciated. *State, ex rel. Thompson, v Memphis*, 147 Tenn 658, 251 SW 46, 27 ALR 1257, 1265.

**indirect evidence.** Evidence of value and weight because of the presumptions and inferences arising therefrom.

See **circumstantial evidence.**

**indirect review.** A collateral attack on a judgment. 2 Am J2d Adm L § 494.

**indirect solicitation.** A term found in statutes prohibiting and penalizing ambulance chasing by attorneys; any circuitous means of reaching the injured person and obtaining control of the claim. *Hightower v Detroit Edison Co.* 262 Mich 1, 247 NW 97, 86 ALR 509.

**indirect tax.** Categorically, a tax other than one imposed directly upon property according to its value, for example, an occupation tax. *Foster & Creighton Co. v Graham*, 154 Tenn 412, 285 SW 570, 47 ALR

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971, 975. Loosely, a tax paid by a person who can shift the burden to another person or who is not under legal compulsion to pay. 51 Am J1st Tax § 25.

**In disjunctivis sufficit alteram partem esse veram.** In disjunctives it is sufficient if either part be true.

**indispensable.** That which cannot be dispensed with; vital; essential.

**indispensable evidence.** Evidence the absence of which renders the proof of a given fact impossible.

**indispensable party.** A person materially interested either legally or beneficially in the subject matter of the suit. *Green v Brophy*, 71 App DC 299, 110 F2d 539, 9 ALR2d 1. A person who must be joined as a party if the action is to succeed. *McAndrews v Krause*, 245 Minn 85, 71 NW2d 153, 53 ALR2d 312. A person who has an interest in the subject matter of

the controversy in litigation of such nature that the final judgment cannot be rendered between the other parties to the suit without radically and injuriously affecting that interest, or without leaving the controversy in such a situation that its final determination may be inconsistent with equity and good conscience. 39 Am J1st Parties § 5.

The true rule as to indispensability of parties calls for a reconciliation of the desirability, on the one hand, of preventing multiplicity of suits and obtaining a complete and final decree between all interested parties, and, on the other hand, of having some adjudication if at all possible rather than none. *Gauss v Kirk*, 91 App DC 80, 198 F2d 83, 33 ALR2d 1085.

**indispensable repairs.** See **necessary repairs.**

**indisputable.** Not subject to dispute; undeniable; irrebuttable; conclusive.

**indisputable presumption.** Same as **irrebuttable presumption.**

**in dispute.** See **dispute.**

**indissolvable union.** The Union of the States in the United States. 49 Am J1st States § 11.

**indistributable.** Incapable of being distributed.

**inditee.** Same as **indictee.**

**individual.** Adjective: Single. Pertaining to one person alone. Noun: A person. A natural person, as distinguished from a corporation. *Commonwealth ex rel. Reinboth, v Councils of Pittsburgh*, 41 Pa 278.

The purchaser may recover for injuries resulting from drinking liquor where the remedy is given by dramshop or civil damage act to "individuals" who sustain damage. 30 Am J Rev ed Intox L § 539.

See **quasi individual.**

**individual banker.** Same as **private banker.**

**individual enterprise.** See **private enterprise.**

**individual estate.** See **separate estate of wife.**

**individual liability.** See **personal liability; superadded liability of stockholders.**

**individually.** As an individual or person; personally. *State v Robinson*, 71 ND 463, 2 NW2d 183, 148 ALR 332.

Where lands were conveyed to husband and wife to be held by them "individually," they were held to take the lands by moieties, as tenants in common, and not by the entirety. *Distributing Co. v Carraway*, 189 NC 420, 127 SE 427.

**individual operator's license.** See **operator's license.**

**individual rights.** See **fundamental rights and privileges.**

**individuo.** See **in individuo.**

**individuum.** Incapable of division; indivisible; inseparable.

**indivisible.** Incapable of division; inseparable.

**indivisible contract.** A contract impossible of division so as to render a valid part enforceable pro tanto where another part is invalid. 17 Am J2d Contr § 230. A contract impossible of division so as to render a party liable upon performance by the other party of one of successive divisions. 17 Am J2d Contr § 324.

See **divisible contract; entirety of contract; severability of contract.**

**indivisible statute.** A statute of such nature that a part of it will not be enforced where another part is invalid. 16 Am J2d Const L §§ 181 et seq.

**indivisibility.** The quality of something that cannot be divided.

See **entirety.**

**indoctrination of prospective jurors.** The instruction of prospective jurors upon court procedure and general principles of law, a practice which, while perhaps salutary in theory, is deemed dangerous in practice and is generally condemned by the courts. Anno: 2 ALR2d 1104.

**in dominico.** In demesne.

See **demesne.**

**indorsat.** Indorsed.

**indorse.** A verb derived from the Latin words "in," meaning "on" and "dorsum" meaning "the back." To write one's own name on the back of an instrument. Commonwealth v Spilman, 124 Mass 327. Implying delivery. Babbitt Bros. Trading Co. v First Nat. Bank, 32 Ariz 588, 261 P 45; Cady v Bay City Land Co. 102 Or 5, 201 P 179, 21 ALR 1367. To approve as worthy of support, as to endorse a candidate for election.

**indorsed note.** A promissory note endorsed by the payee or by payee and prior endorsee.

See **approved endorsed note.**

**indorsed over.** Indorsed and delivered. Babbitt Bros. Trading Co. v First Nat. Bank, 32 Ariz 588, 261 P 45.

**indorsee.** The person named in a special endorsement of a bill or note.

The holder of an instrument on which the only or last endorsement is a blank endorsement is a "bearer," rather than an "endorsee." 11 Am J2d B & N § 371.

**indorsee in due course.** A person who in good faith, in the ordinary course of business, for value, before its apparent maturity or presumptive dishonor, and without knowledge of its actual dishonor, acquires a negotiable instrument duly endorsed to him, or endorsed generally, or payable to bearer. Reese v Bell (Cal) 71 P 87.

See **holder in due course.**

**indorsement.** Literally, as derived from the Latin "indorsa," a writing on the back; employed in common as well as legal usage to designate the transaction whereby the holder of a bill or note transfers his right to such instrument to another person and incurs the liabilities incident to the transfer under the law. 11 Am J2d B & N § 349. The writing of

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one's own name on the back of a negotiable instrument, whereby one not only transfers one's full legal title to the paper but likewise enters into a contract, implied or express, dependent upon whether or not the signing of the name is accompanied by other words, and the particular words used, such as an implied guaranty that the instrument will be paid. Glaser v Connell, 47

Wash 2d 622, 289 P2d 364. An additional contract on the instrument; a new, independent, and substantive contract. 11 Am J2d B & N § 349. (For liability of indorser, see 11 Am J2d B & N §§ 598 et seq.) Signing one's name on the face of a bill or note with words indicating the character of the signature as an indorsement or the character of the signer as an indorser. Peoples Nat. Bank v Dicks, 258 Mich 441, 242 NW 825. A signature on a security in registered form or on a separate document assigning or transferring the security or granting a power to assign or transfer it, or the mere signature on the back of a security of a person having the right or authority to assign or transfer the instrument or empower another person to assign or transfer it. UCC § 8308(1).

Broadly, a writing on the back of an instrument for any purpose, not necessarily the purpose of transfer or assumption of liability. 11 Am J2d B & N § 349. Technically confined to the theory of negotiability, but commonly used in application to the writing of a name on the back of a nonnegotiable instrument. Bank of America v Butterfield, 77 SD 170, 88 NW2d 909.

A signature upon the back of a will. 57 Am J1st Wills § 263. Most broadly, a writing upon either the back or margin of an instrument, for example, a writing indicating part payment. 34 Am J1st Lim Ac § 347. The marking of an envelope which contains a deposition to indicate such content and the title of the cause. 23 Am J2d Dep § 82.

See **backing; blank indorsement; for account of; for clearing house purposes only; for collection; for deposit; full indorsement; general indorsement; guaranty of previous indorsements; irregular endorsement; previous indorsements guaranteed; proper indorsement; qualified indorsement; regular indorsement; restrictive indorsement; special endorsement; transfer by indorsement; usual course of business; waiver of presentment; waiver of protest; without recourse.**

**indorsement after maturity.** An indorsement of a bill or note, the legal effect of which is, in general, that the holder takes the instrument subject to all the equities which existed between the original parties. 11 Am J2d B & N § 481.

**indorsement before due.** An indorsement of a bill or note the legal effect of which is that the holder takes the instrument discharged of all defenses which could arise out of equities which existed between the original parties. 11 Am J2d B & N § 398.

**indorsement for account of.** See **for account of.**

**indorsement for clearing house purposes only.** See **for clearing house purposes only.**

**indorsement for collection.** See **for collection.**

**indorsement for deposit.** See **for deposit.**

**indorsement in blank.** See **blank indorsement.**

**indorsement in full.** See **full indorsement.**

**indorsement of ballot.** A statutory requirement in reference to ballots delivered to voters at an election; the initiating of a ballot upon the back thereof by an election official. 26 Am J2d Elect § 255.

**indorsement of deed.** Words of conveyance indorsed on an instrument to give it operation as a conveyance of property. 23 Am J2d Deeds § 37.

See **in the within deed.**

**indorsement on indictment.** Words written upon an indictment denoting its character as a "true bill." 27 Am J1st Indict § 42.

**indorsement on information.** Giving the names of witnesses for the state. 27 Am J1st Indict § 46; 6 Am J2d Attach §§ 312, 316; 30 Am J2d Exec § 552.

See **return of process**.

**indorsement on instruction.** The noting by the judge at the trial on each written instruction presented to him by counsel, the fact of giving or refusing it, by writing thereon either "given" or "refused" as the case may be. The court's error in omitting this practice is generally regarded as harmless. 53 Am J1st Trial § 534.

**indorsement on policy.** A physical addition to an insurance policy by written, typed or printed matter appearing on the margin of the instrument, on the back of the instrument, or on a separate sheet or sheets attached to the instrument, or to any manner other than in the body of the instrument. 29 Am J Rev ed Ins § 267.

**indorsement on writ.** In effect a return of the process by the officer to whom it was issued, noting the acts performed by him under the writ or the absence of service of the process.

**indorsement sans recours.** Indorsement without recourse.

See **without recourse**.

**indorsement with enlarged liability.** An indorsement of a bill or negotiable instrument with the written words "demand, notice, and protest waived, and payment guaranteed," appearing above the signature of the indorser. *Buck v Davenport Sav. Bank*, 29 Neb 407.

**indorsement without recourse.** See **without recourse**.

**indorser.** One who indorses; one who signs as an indorser; even one who signs on the face of the instrument, provided he indicates his character as an indorser in writing appearing with the signature. *Peoples Nat. Bank v Dicks*, 258 Mich 441, 242 NW 825. One who indorses a registered security by way of transferring or assigning the instrument or granting another the authority to assign or transfer it. 15 Am J2d Com C § 32.

See **accommodation indorser; indorsement; satisfactory indorser**.

**indorser duly notified in writing.** A phrase used in the entry of the protest of a negotiable instrument. *Bell v Perkins*, 7 Tenn (Peck) 261.

**indorser not holden.** See **without recourse**.

**indorser's liability.** The liability incurred by the endorsement of a negotiable instrument. 11 Am J2d B & N §§ 598 et seq.

**in dorso.** On the back.

**in dorso recordi.** On the back of the record.

**In dubiis, benigniora praeferenda sunt.** In doubtful cases, the more liberal constructions are to be preferred.

**In dubiis, magis dignum est accipiendum.** In doubtful cases, the more worthy is to be adopted or accepted.

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**In dubiis, non praesumitur pro testamento.** In doubtful cases, there is no presumption in favor of a will.

**in dubio.** In doubt; in case of doubt; in a doubtful case.

**In dubio, haec legis constructio quam verba ostendunt.** In a doubtful case, that construction which the words indicate should be adopted.

**In dubio, pars mitior est sequenda.** In a doubtful case, the milder course should be pursued.

**In dubio pro dote, libertate, innocentia, possessore, debitore, reo, respondendum est.** In case of doubt the response is in favor of dower, liberty, innocence, of the possessor, of the debtor, and of the defendant. *Chrisman v Linderman*, 202 Mo 605, 100 SW 1090.

**In dubio, pro lege fori.** In case of doubt, the law of the forum governs.

**In dubio, sequendum quod tutius est.** In a doubtful case, that course should be followed which is the safer one.

**indubitable proof.** Evidence that is not only credible, but is of such weight and directness as to make out the facts alleged beyond a doubt. *Hart v Carroll*, 85 Pa 508.

**induce.** To lead on, to influence, to prevail on, or move by persuasion or influence. *Bradbury v Brooks*, 82 Colo 133, 257 P 359.

**induce and encourage.** A term broad enough to include every form of influence and persuasion. *International Brotherhood, E. W. v NLRB*, 341 US 694, 95 L Ed 1299, 71 S Ct 954.

**induced error.** See **invited error**.

**inducing cause.** See **procuring cause**.

**inducement.** That which prevails on a person to promote an act or acts by him, for example, fraud inducing the making of a contract. 23 Am J1st Fraud § 111. That part of a declaration or complaint in an action for libel or slander the office of which is to narrate the extrinsic circumstances which, coupled with the language published or uttered by the defendant affect its construction, and render it actionable, where, standing alone and not thus explained, the language would appear either not to concern the plaintiff, or, if concerning him, not to affect him injuriously. 33 Am J1st L & S § 239.

See **entrapment**.

**induciae.** An armistice; a truce; a suspension of hostilities; an indulgence.

**induct.** To lead or conduct. To place a person formally in the possession of an office or a benefice To place or install a person in an office. To bring into one of the armed forces a person called for service under a compulsory service act. 36 Am J1st Mil § 24.

**inducted.** Led or conducted. Placed in an office or a benefice. Made a member of one of the armed forces after having been called under a compulsory service act. 36 Am J1st Mil § 24.

A registrant has been "inducted" when he has appeared before his local board, has been passed by its medical examiners on the preliminary or screen examination, has passed his blood test at the local hospital or state board of health, has passed his medical examination at the hands of the army doctors at the induction center, and has taken the oath as a member of the armed forces of the United States. *Hoellman v Abel*, 293 Ky 776, 170 SW2d 26.

**inductio.** (Civil law.) A cancellation; an obliteration.

**induction.** Being made a member of one of the armed forces after having been called under a compulsory service act. 36 Am J1st Mil § 24. The flow of electricity, through the medium of the atmosphere, from one wire to another without actual contact. 26 Am J2d Electr § 2. Producing an effect in a conductor of electricity.

Being formally placed in office. The investing of a clergyman with the actual possession of the temporalities of a benefice by means of some symbolic act. *Godwin v Liman* (Va) Jeff 96, 99.

**in due course.** See **holder in due course.**

**in due course of transportation.** Between delivery of the shipment to the carrier and delivery to the consignee or one acting for the consignee. Anno: 80 ALR2d 447, 452. For the purposes of stating the risk of protection by an insurance policy, prior periods of actual movement or periods of rest while property is being carried from one place to another with the intention to take it to a destination conceived in the mind, not the mere possession of something in the course of a casual wandering. Anno: 80 ALR2d 447.

**indulgence.** The granting of a favor, such as an extension of time to a creditor. 34 Am J1st Lim Ac § 367. In the Roman Catholic Church, a remission of punishment for sin. In other connections, a grant of religious liberties to persons not members of the established church.

**indulto.** (Spanish.) A pardon by the king for the commission of an offense.

**indument.** Same as **endowment.**

**in duplo.** In double the amount.

**in duplum.** In double the amount.

**industria.** See **ex industria.**

**industrial.** Pertaining to industry.

**industrial accident commission.** A special agency or board administering the workmen's compensation act of the jurisdiction. 58 Am J1st Workm Comp § 371. An agency known in other states as the workmen's compensation commission.

**industrial accident fund.** See **state insurance fund.**

**industrial arts.** **Mechanical arts.**

**industrial bank.** A bank of a particular type, operating with the primary purpose of giving credit to wage earners of good character on an instalment-payment basis.

**industrial blindness.** Impairment of vision to the extent of preventing one from engaging in an industrial pursuit. *Powers v Motor Wheel Corp.* 252 Mich 639, 234 NW 122, 73 ALR 702.

**industrial bounties.** Bounties to industry provided by Act of Congress in promotion of national defense. 12 Am J2d Bount § 2.



**industrial commission.** Same as **industrial accident commission.**

**industrial development.** An area devoted to industries, that is, a section in which industrial plants have been built and are operating. The process of creating an area for industries, the obtaining of industries for the section, and the construction of industrial plants.

**industrial disease.** A disease peculiar to a certain employment because of the place of employment and conditions affecting the health in such place. A sudden and unexpected development of a traumatic origin in an employment. 58 Am J1st Workm Comp § 246. An infirmity which does not arise by "accident" and, in the absence of an express provision in the act, is not an injury or personal injury within the meaning of a compensation statute. 58 Am J1st Workm Comp § 246.

**industrial dispute.** See **labor dispute; strike.**

**industrial district.** See **industrial zone.**

**industriales.** See **fructus industriales.**

**industrial establishment.** A place for engaging in an industry, particularly manufacturing, requiring both capital and labor. State ex rel. Kansas City Power & Light Co. v Smith, 342 Mo 75, 111 SW2d 513.

**industrial exhibition.** An exhibition in which industries of the state or locality, depending upon the sponsor, exhibit their products and demonstrate some of their manufacturing operations. 37 Am J1st Mun Corp § 128.

**industrial homework.** See **homework; homeworker.**

**industrial hospital.** A hospital maintained by a railroad or industrial corporation for the benefit of the employees, supported usually by the employer or partly by the employer and partly by the employee. 26 Am J1st Hospit § 15.

**industrial insurance.** A form of life insurance, the primary purpose of which is to provide for the expenses of the last illness and burial of the insured, characterized by the relatively small amounts in which the policies are written, the circumstance that the premiums are payable monthly, and the additional circumstance that ordinarily the premiums are collected by collectors employed by the insurer who make house to house calls.

**industrial life insurance.** See **industrial insurance.**

**industrial railroad.** A railroad within the limits of an industrial plant operated for the benefit or convenience of the industry. 13 Am J2d Car § 12.

**industrial relations.** The relations between the employing industry and the workers, often referred to today as capital and labor.

As the words are used in the title of an act relating to an administrative body for the regulation of industrial relations, the word industrial means relating to industry, and industry embraces those departments devoted to public service. The word relations has the meaning of "affairs." Fifty years ago the words would have conveyed little or no information, but in the light of common knowledge of the science of government, and particularly the regulation of industry by administrative tribunals as they now exist, anyone whose interests might be affected by the legislation would be directed to details by the title. State ex rel. Hopkins v Howat, 109 Kan 376, 198 P 686, 25 ALR 1210, 1228.

**industrial relations court.** An administrative board established for the regulation of industrial relations. State ex rel. Hopkins v Howat, 109 Kan 376, 198 P 686, 25 ALR 1210, writ of error dismd 258 US 181, 66 L Ed 550, 42 S Ct 277.

**industrial relations department.** A department of a state government administering the workmen's compensation act; otherwise known in some jurisdictions as the workmen's compensation commission.

**industrial school.** An institution for the reception, education, and training of wayward, incorrigible, or vicious youths or youths from broken homes or whose parents are incapable or unworthy of caring for children, where they may be inculcated with habits of industry and morality and be free from the corrupting influence of bad associates. 26 Am J1st House of C § 2.

**industrial solids.** Refuse and waste from an industrial plant.

**industrial union.** A labor union organized on an industrial basis without regard to the particular occupations or skills of the members, taking in as members all employees of a particular industrial unit. 31 Am J Rev ed Lab § 13.

**industrial zone.** An area where the construction and operation of industrial plants is permitted under zoning ordinances. 58 Am J1st Zon § 33.

**industry.** Diligence in employment or self-employment, exercised bodily or mentally. Carver Mercantile Co. v Hulme, 7 Mont 566, 571. A business, plant, or enterprise for the production of goods, merchandise, machines, motor vehicles, etc. for sale, particularly a manufacturing plant employing many people and requiring the support of large capital. A distinct branch of trade or business, such as the sugar industry, the printing industry, or the clothing industry. State ex rel. Kansas City Power & Light Co. v Smith, 342 Mo 75, 111 SW2d 513. A thing involving capital and labor but distinct from both.

**industry affecting commerce.** As defined by the Taft-Hartley Act, any industry or activity in commerce or in which a labor dispute would burden or obstruct commerce or intend to burden or obstruct commerce or the free flow of commerce. Shirley-Herman Co. v International Hod Carriers, Bldg. & C. L. Union (CA2 NY) 182 F2d 806, 17 ALR2d 609.

**indutiae.** Same as **induciae.**

**in eadem causa.** In the same cause; in the same case; in the same suit or action; in the same condition or state. A person in a condition of chronic inebriety, whether caused by the excessive use of intoxicating liquors, morphine, or other narcotics. Leavitt v Morris, 105 Minn 170, 117 NW 393 (statutory definition.)

**inebriate.** Noun: An habitual drunkard. 29 Am J Rev ed Ins Per § 8. A drunken person. Verb: To intoxicate or make drunk.

**inebriated.** Intoxicated.

**inebriation.** Same as **intoxication.**

**inebriety.** Same as **intoxication.**

**in effect.** In force; in operation; effective. In fact.

**ineffectual judgment.** A judgment which grants full relief to the successful party but is unenforceable

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in his behalf because of substantial defect. Anno: 69 ALR2d 727, § 11[b].

**inefficiency.** Incompetency; a lack of some requisite ability. Anno: 4 ALR3d 1095. Incapability, as for a public office. State ex rel. Rockwell v State Board of Education, 213 Minn 184, 6 NW2d 251, 143 ALR 503.

See **efficient**.

**In ejus unius persona veteris reipublicae vis atque majestas per cumulatas magistratum potestates exprimebatur.**

The power and majesty of the old commonwealth were represented in that one man through the combined powers of the magistrates. 1 Bl Comm 251.

**ineligibility.** The state of being ineligible.

See **ineligible**.

**ineligible.** Want of eligibility. The lack of the legal qualifications essential for an office or trust. Barnum v Gilpin, 27 Minn 466, 8 NW 375.

See **eligibility**.

**in emulationem vicini.** In envy or hatred of a neighbor.

**In eo quod plus sit, semper inest et minus.** The less is always included in the greater.

**in equal shares.** Sometimes, although not always, indicating a gift to individuals rather than to a class. 57 Am J1st Wills § 1265.

**in equal wrong.** See **in pari delicto**.

**inequitable.** Unjust; not according to the principles of equity.

**inequitable conduct.** A course of conduct contrary to the principles of equity. Unconscionable conduct; unfairness; conduct prompted by bad motive. 27 Am J2d Eq § 138.

**in equity.** In a court of equity; through or by means of proceedings in equity.

**in esse.** Alive; living; in being.

See **in being**.

**in essentialibus.** In the essentials.

**Inesse potest donationi, modus, conditio sive causa; ut modus est; si conditio; quia causa.** There can be manner, condition, or cause in a gift; "ut" is for the manner; "si" is for the condition; and "quia" for the cause.

**Inest de jure.** It is implied in law.

**in evidence.** Before the court, after having been offered or introduced, and received, as evidence.

**inevitable.** Not to be avoided; unavoidable.

**inevitable accident.** A purely accidental occurrence, the origin of which is either in the agency of men or in a natural force. King v Richards-Cunningham Co. 46 Wyo 355, 28 P2d 492. An unusual, unexpected, or extraordinary occurrence. French v

Pirnie, 240 Mass 489, 134 NE 353, 20 ALR 1098. A collision of ships which occurs, even though both parties have endeavored, by every means in their power, with due care and caution and a proper display of nautical skill, to prevent it, and in spite of everything that nautical skill, care, and precaution can do to keep the vessels from coming together. 48 Am J1st Ship § 232.

An Act of God is an inevitable accident because no human agency can resist it, but the expression "inevitable accident" is broader and more comprehensive than "Act of God." 38 Am J1st Negl § 6. But as the term is employed in the law of common carriers, it is a technical expression and "a loss by inevitable accident" is held to be synonymous with "a loss by act of God." Neal v Saunderson, 10 Miss 2 Smedes & M 572.

See **inevitable casualty; unavoidable accident.**

**inevitable casualty.** A term, apparently favored in the drafting of leases, meaning inevitable accident. An occurrence of an unusual, unexpected, or extraordinary character, without the direct participation of either landlord or tenant. Anno: 20 ALR 1101; 32 Am J1st L & T § 505.

See **inevitable accident.**

**inewardus.** A warden; a guard; a watchman.

**in excambio.** In exchange.

**in execution under sentence of the court.** The state or condition of a person who is imprisoned in execution of a sentence. Mitchell v Greenough (CA 9 Wash) F2d 184.

**in exitu.** Same as **in issue.**

**in expectancy.** See **estate in expectancy; expectancy.**

**in expectation.** In anticipation rather than in present enjoyment or endurance.

As used with reference to estates, the term is used in contradistinction to the term "in possession." Both terms contemplate a title vested and indefeasible, but in one instance the right of enjoyment is immediate, "in possession;" in the other it is postponed, "in expectation." People v McCormick, 208 Ill 437, 70 NE 350.

**inexperience.** Want of experience. Want of judgment in matters of business arising from lack of participation in such matters; not the incompetency which justifies the appointment of a guardian. 29 Am J Rev ed Ins Per § 6.

See **experience.**

**In expositione instrumentorum, mala grammatica, quod fieri potest, vitanda est.** In the drawing of instruments, bad grammar is to be avoided as much as possible.

**in extenso.** At length; in full; verbatim.

**in extremis.** In the last stage and extremity of the last illness. As a characterization of the circumstance under which a declaration becomes admissible in a prosecution for homicide as a dying declaration, the victim being the declarant:—at the point of death from the wound to which the declaration refers, although not necessarily taking the last breath. 26 Am J1st Homi § 405.

**in eyre.** See **adjournment in eyre.**

**in facie curiae.** In the face or presence of the court. *Cooke v United States*, 267 US 517, 536, 69 L Ed 767, 773, 45 S Ct 390.

**in facie ecclesiae.** In the face of the church, that is, in a church.

See **marriage in facie ecclesiae**.

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**in faciendo.** In doing; in making; in performing. In fact. In truth. In reality. In existence rather than in theory. In circumstances rather than in law.

See **assignee in fact; attorney in fact; possession in fact**.

**in facto.** In fact; in deed.

**In facto quod se habet ad bonum et malum, magis de bono quam de malo lex intendit.** In a deed which may be held to be either good or bad, the law directs its attention more to the good than to the bad.

**infamia.** Infamy; disgrace; dishonor; ignominy; ill repute.

**infamia facti.** Infamy in fact; the infamy which in fact exists where a person is supposed to be guilty of a crime, but it has not been judicially proved.

He who has been declared infamous in one country is infamous in a foreign country in fact, but not in law. *Commonwealth v Green*, 17 Mass (17 Tyng) 515, 541.

**infamia juris.** Infamy in law; that is, infamy established by law as a consequence of crime. *Commonwealth v Green*, 17 Mass (17 Tyng) 515, 541.

**infamis.** Of ill repute; infamous; disreputable.

**infamous.** See **infamia facti; infamous crime**.

**infamous crime.** A term of more than one connotation; sometimes referring to the manner of punishment, at other times to the effect of a conviction upon the credibility of the delinquent. 21 Am J2d Crim L § 23. Determined by the nature of the punishment rather than the circumstances of the commission of the particular offense for which punishment imposed. *Briggs v Board of Comrs*. 202 Okla 684, 217 P2d 827, 20 ALR2d 727. At common law, a crime infamous in the opinion of the people respecting the mode of punishment or infamous in respect of the future credibility of the delinquent. 21 Am J2d Crim L § 23. An offense punishable by death or by imprisonment in a prison or penitentiary, particularly if the period of imprisonment is more than one year. Anno: 24 ALR 1004; 27 Am J1st Indict § 10. Within the meaning of the Fifth Amendment of the Federal Constitution, an offense punishable by imprisonment in a state prison or penitentiary with or without hard labor. *Ex parte Mills*, 135 US 263, 267, 34 L Ed 107, 109, 10 S Ct 762. Treason, felony, and those crimes of dishonesty included within the term "crimen falsi." 21 Am J2d Crim L § 23. In one sense of the term, any felony. *State ex rel. Anderson v Fousek*, 91 Mont 448, 8 P2d 312, 84 ALR 303.

An offense which is typified by collateral results such as disqualification for voting or holding office. 21 Am J2d Crim L § 23. An offense which can be prosecuted only by indictment by a grand jury or the equivalent in an information. 21 Am J2d Crim L § 23. An offense expressly declared "infamous" by statute. *People ex rel. Latimer v Randolph*, 13 Ill 2d 552, 150 NE2d 603, cert den 358 US 852, 856, 3 L Ed 2d 85, 90, 79 S Ct 80, 89.

In determining whether a crime is infamous, the punishment which the statute authorizes is regarded, and not the punishment which is actually awarded. 27 Am J1st Indict § 9.

**infamous crime against nature.** See **pederasty; penetration per anum; sodomy.**

**infamous offense.** Same as **infamous crime.**

**infamous punishment.** Punishment characterized by infamy; punishment for a felony rather than punishment for a misdemeanor. 27 Am J1st Indict § 9.

Two hundred years ago, punishments clearly infamous were death, gallows, pillory, branding, whipping, confinement at hard labor, and cropping. Whipping and being put in the stocks were not so regarded in colonial times, but would probably be considered infamous today. Punishment by confinement in a state prison or penitentiary, or other similar institution is held to be infamous punishment. Ex parte Wilson, 114 US 417, 428, 29 L Ed 89, 93, 5 S Ct 935.

**infamy.** Disgrace; loss of reputation. The stigma which attaches to a person who has been convicted of an infamous crime. Schuylkill County v Copley, 67 Pa 386, 390. Disgrace resulting from the conviction of a crime whereby the privileges attendant upon citizenship are lost or one's competency or credibility as a witness adversely affected. Ex parte Wilson, 114 US 417, 422, 29 L Ed 89, 91, 5 S Ct 935.

**infancy.** A status created by law; the status of nonage; in other words, the status of an infant.

See **infant.**

**infangenthef.** The right or privilege of the lord of the manor to pass judgment on a thief taken within the manor.

**infangthefe.** Same as **infangenthef.**

**infans.** (Civil law.) A child under the age of seven years.

**Infans non multum a furioso distat.** An infant does not differ much from a lunatic.

**infant.** In ordinary usage, a child of a tender and helpless age. In law, a person who has not reached the age of majority, usually 21 years, at which the law recognizes a general contractual capacity. 27 Am J1st Inf § 2.

In some states females become of age at the end of the eighteenth year and the statutes of some states make all persons adults upon their marriage. See 27 Am J1st Inf § 5.

See **emancipation of minor; legal capacity; majority; natural infancy.**

**infantia.** (Civil law.) Childhood from birth to the age of seven years.

**infanticide.** The killing of a young child shortly after its birth.

**infantile paralysis.** See **poliomyelitis.**

**Infants' Marriage Act.** An English statute which enabled an infant to enter with court sanction into a valid marriage settlement. 18 & 19 Vict c 43.

**infanzon.** (Spanish.) A person of noble birth.

**infatuation.** An attraction without reason.

**In favorabilibus magis attenditur quod prodest quam quod nocet.** In matters which are favored, more attention is paid to that which is beneficial than to that which is harmful.

**in favorem libertatis.** In favor of liberty. Re Justus, 3 Okla Crim 111, 104 P 933.

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**in favorem prolis.** In favor of the offspring or descendants.

**in favorem vitae.** In favor of life.

**in favorem vitae, libertatis, et innocentiae, omnia praesumuntur.** All things are presumed in favor of life, liberty, and innocence.

**infected.** Having an infection or having caused an infection.

See **infection.**

**infection.** The state or condition of a person or animal whose body is affected with a disease, or in or on whose body the germs of a disease are present. Summers v Houston, 62 Okla 280, 162 P 474. The transmitting of a disease from one person to another. An absorption of germs at a definite external point of contact on the human body, such as a scratch, abrasion, or vulnerable tissue, or through the nose, mouth, or other normal channel of entry. 58 Am J1st Workm Comp § 251. The transmitting of a feeling, perchance gaiety, from one person to others.

**infectious.** Capable of transmitting a feeling, particularly a feeling of gaiety. In a somber sense, capable of causing an infection leading to a disease. Having a contaminating character in the literal sense or in a figurative sense, as where it is said contraband articles are "infectious" in a cargo, subjecting the whole to condemnation. 56 Am J1st War § 157.

**infectious disease.** A disease caused by bacteria, virus, or other parasite in the body. A disease likely to be spread to other persons by infection.

A disease which presupposes a cause acting by hidden influences, like the miasma of prison ships or marshes, or through the pollution of water or the atmosphere, or from the various dejections from animals. As applied to Texas fever, if it were infectious, it would be communicated by cattle carrying the germs of the disease from the infected district, and depositing them upon the range and waters occupied by other cattle susceptible to the infection, so that they would become infected therefrom. Grayson v Lynch, 163 US 468, 477, 41 L Ed 230, 233, 16 S Ct 1064.

An infectious disease may or may not be contagious, that is, communicable by contact or body exhalation. Grayson v Lynch, 163 US 468, 41 L Ed 230, 16 S Ct 1064.

**in fee.** A term descriptive of the highest and most enlarged estate in real property, meaning "in fee simple." 28 Am J2d Est § 9.

"When it is said that a man is seised in fee, without more saying, it shall be intended in fee simple; for it shall not be intended by this word 'in fee,' that a man is seised in fee taylor, unless there be added to it this addition, fee taylor." "When the terms in fee, without adjunct, are used as applied to estates, they are to be taken as descriptive of the highest and most enlarged estate, as contradistinguished from a fee conditional at the common law, or a fee tail by the Statute De Donis." Pennington v Pennington, 70 Md 418, 17 A 329.

See **fee simple.**

**in fee simple.** See **fee simple.**

**in fee tail.** See **fee tail.**

**infest.** Same as **enfeoff.**

**infertment.** Same as **enfeoffment**.

**infeodare.** To enfeoff; to invest with a fee.

**infeodatio.** Same as **enfeoffment**.

**infeodation.** Same as **enfeoffment**.

**infeodo.** In fee.

**infeoffment.** Same as **enfeoffment**.

**infer.** To reason and conclude from a known fact. Derived from the Latin word "inferre," compounded of "in," meaning from, and "ferre," to carry or bring; so, its strict meaning is to bring a result or conclusion from something back of it; that is, from some evidence or data from which it may be logically deduced. *Morford v Peck*, 46 Conn 380, 385.

**inference.** In common usage, that which is inferred. In legal usage, a permissible deduction from the evidence before the court which the jury may accept, reject, or accord such probative value as they desire. 29 Am J2d Ev § 161. A permissible deduction which the trier of the facts may adopt, without an express deduction of law to that effect. *Rose v Missouri Dist. Tel Co.* 328 Mo 1009, 43 SW2d 562, 81 ALR 400. In a proper sense, the thing proved. Not guesswork. *Whitehouse v Bolster*, 95 Me 458, 50 A 240. A presumption of fact, but not presumption of law.

See **presumption; presumption of fact**.

**inferential.** Inferable or deducible from facts which have been proved.

**inferior.** Less or lower in power, authority, rank, or station; subordinate.

**inferior agent.** An ordinary agent or employee of a corporation, who acts in an inferior capacity, and under the direction of superior authority, both in regard to the extent of the work and the manner of its execution.

Such an agent is to be distinguished from a managing agent who is invested with general power, involving the exercise of judgment and discretion. The distinction is made in reference to the statutes which have usually provided that service of process may be made on a foreign corporation by service upon its managing agent. *Foster v Charles Betcher Lumber Co.* 5 SD 57, 58 NW 9.

**inferior court.** A classification of somewhat flexible character, but usually meaning that the court is one whose proceedings are not endowed with the presumption of jurisdiction. 20 Am J2d Cts § 28. A court of limited jurisdiction. 20 Am J2d Cts § 28. A court of original jurisdiction as distinguished from a court having appellate jurisdiction; a court of original jurisdiction as distinguished from a court exercising supervisory control over it. 20 Am J2d Cts § 28. A court subject to control under a writ of mandamus directed to it by another court. 35 Am J1st Mand § 250.

**inferior equity.** A right subordinate to another or other rights from the standpoint of the relative standing of the parties in equity. The degree of right of the party who is shown to have been in the better position to avert the loss, injury, or prejudice now to be borne by the one or the other. *Champa v Consolidated Finance Corp.* 231 Ind 580, 110 NE2d 289, 36 ALR2d 185.

See **junior equity**.

**inferior use.** A public use of land of lesser rank in respect of public necessity than another public use for which it is sought to condemn the property. 26 Am J2d Em D § 90.



**inferred.** Concluded from a known fact.

See **infer; inference.**

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**infeudation.** Same as **enfeoffment.**

**infeudation of tithes.** The investing of a layman with the right to receive tithes.

**in feudis stricte novis.** In feuds strictly new. See 2 Bl Comm 229.

**in feudis vere antiquis.** In feuds really ancient.

**inficiari.** (Civil law.) To deny; to repudiate an obligation; to deny liability.

**inficiatio.** (Civil law.) A denial; a denial or repudiation of liability; a denial or repudiation of an obligation.

**In fictione juris consistit aequitas.** In the fictions of law, equity supports it.

**In fictione juris semper aequitas existit.** In a fiction of law, an equity always survives; that is, a fiction of law is always consistent with equity.

"All fictions of law, we have been taught, were created to enable the court to do justice, and where to indulge a fiction is to cause injustice, its just limit has been found." Estate of Walker, 125 Cal 242, 57 P 991.

**In fictione juris semper est aequitas.** In fiction of law, equity always exists. To apply a legal fiction to work a wrong is a violation of the maxim. Emerson v Thompson, 19 Mass (2 Pick) 473, 495.

**In fictione juris subsistit aequitas.** In the application of a fiction of the law, equity will prevail. State ex rel. Watson v Standard Oil Co. 49 Ohio St 137, 30 NE 279.

A fiction is maintained where it may contribute to the advancement of justice; it will not be allowed to work an injury or prejudice to any party. Low v Little (NY) 17 Johns 346, 348.

**infidel.** One without trust in God or belief in immortality. State v Rozell (Mo) 225 SW 931, 16 ALR 400, later app (Mo) 279 SW 705. In a parochial view, one who does not believe in the Bible or believe that Jesus Christ was the true Messiah, the Son of God; one who necessarily must be both anti-Catholic and anti-Protestant. Hale v Everett, 53 NH 9.

**infidelis.** An infidel; an unbeliever; a person who violated his oath of fealty.

**infidelitas.** Infidelity; unfaithfulness; disloyal to one's oath of fealty.

**infidelity.** In one sense, the state of being an infidel. In modern usage and generally the usage in the law, unfaithfulness in marriage; practically synonymous with adultery; a stated ground of divorce under the statutes of some jurisdictions. Bradshaw v Tinker, 129 Okla 244, 264 P 162.

See **adultery; infidel.**

**in fieri.** In the making; unfinished; incomplete.

At common law, misspellings and other clerical errors could be amended while all the proceedings were "in paper," and therefore subject to the control of the courts, but when the record was made up, no amendment could be made unless within the term of court in which the record was made. Later, however, the law relaxed and permitted such an amendment to be made at

any time before judgment was given, because until then, the proceedings were considered as being "in fieri." See 3 Bl Comm 406.

**infiht.** (Saxon.) An assault upon a person who lived in the same house as the assailant.

**in fine.** At the end; as, at the end of a page; at the end of a book.

**infinite.** Without limit.

See **distress infinite.**

**infinitem.** Endlessly.

**Infinitem in jure reprobatur.** Endlessness is disapproved in the law.

**infirm.** Weak; sickly; feeble in mind or body, particularly from old age. Lacking purpose.

**infirmary.** A building or part of a building devoted to the care of sick and disabled persons.

**infirmative.** Tending to weaken or lessen.

**infirmirate.** See **de infirmitate; essoin de infirmitate.**

**infirmity.** Disease; physical or mental weakness. Including abnormal weaknesses, such as impaired heart functions, as well as acute diseases. 29A Am J Rev ed Ins § 1211. Something beyond a temporary disorder; an ailment of a somewhat established or settled character which, at least, has a tendency to impair a person's health and physical vigor. Anno: 26 ALR 1515. As the word appears in an application for life, health, or accident insurance or in any representation, warranty or condition contained in such a policy:—a defective condition of a substantial character which in some material degree impairs the physical condition and health of the applicant, and increases the chance of death, sickness, or accident against which the insurance company is asked to issue insurance. 29 Am J Rev ed Ins § 749.

**infirmity exemption.** A homestead exemption granted an infirm person, although he is not the head of a family. 26 Am J1st Home § 15.

**in flagrante delicto.** In the act of committing the offense; "red-handed." State v Smith, 156 NC 628, 72 SE 321.

**inflammable.** A substance easily ignited.

**inflammable substance.** See **inflammable.**

**inflation.** An economic condition characterized by rising prices and a decrease in the purchasing power of money. 22 Am J2d Dam § 87; 27 Am J2d Em D § 274.

**inflict.** To impose as a burden. To cause, as to produce injury by striking. To impose as punishment pursuant to sentence.

The word does not necessarily imply direct violence. There is no more appropriate use of the word than in connection with punishment and to inflict punishment clearly includes imprisonment and involuntary restraint, as well as hanging, beheading, or whipping. Commonwealth v Macloon, 101 Mass 1.

**inflicted injury.** Any bodily harm which is caused to be suffered by the act of one person upon another. Commonwealth v Macloon, 101 Mass 1. For some purposes, confined to an injury intentionally produced, not including an injury caused by an insane person. Great Southern Life Ins. Co. v Campbell, 148 Miss 173, 114 So 262, 56 ALR 681 (phrase appearing in exception stated in double indemnity provision of life insurance policy.) Noun: The quality possessed by a person through ability, educa-

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tion, social standing, or wealth to affect the course of conduct or of the acts of another.

**influence.** Verb: To alter, move, sway, or affect. State v Ventola 122 Conn 635, 191 A 726, 110 ALR 578. In some connotations, as in labor relations, pressure applied to corrupt or over-ride the will, at least something beyond innocent communications and friendly intercourse between employer and employee. Texas & N.O. R. Co. v Brotherhood of R. & S.S. Clerks, 281 US 548, 74 L Ed 1034, 50 S Ct 427.

See **undue influence.**

**influence of liquor.** See **under the influence of liquor.**

**influencing election.** Restricting the liberty of an elector to vote according to his best judgment and conscience or bringing to bear any influence calculated to affect adversely the purity of an election. 26 Am J2d Elect § 385.

**influencing jurors.** Bringing a bad influence to bear upon jurors for the purpose of obtaining a desired verdict. 31 Am J Rev ed Jury § 66.

**influenza.** An inflammation of the respiratory tract. A common disease. 58 Am J1st Workm Comp § 244. But a disease which spreads rapidly by infection and may be deadly, especially in its aftereffects, unless medical treatment is obtained.

**in force.** In effect; operative, as in the case of a contract which is in force until it is abrogated or rescinded voluntarily or in judicial proceedings, or it terminates in accordance with a provision for termination contained in the contract. Malanti v Metropolitan Life Ins. Co. 127 Misc 674, 675, 216 NYS 643, 644.

**informal.** Lacking in form; not according to formal rules or requirements.

**informality.** The quality of being informal. In pleading, a deviation, in alleging necessary facts and circumstances, from the well approved forms of expression, and a substitution in lieu thereof of other terms, which nevertheless constitute plain, intelligible and explicit language. State v Gallimore, 24 NC (2 Ired L) 372, 377.

**in forma pauperis.** In the status of a poor person. The characterization of an action or proceeding authorized by statute by a person who by reason of poverty is unable to give security for the payment of costs, where the statute requires security to be given. Anno: 6 ALR 1285. The characterization of an appeal by a poor person, especially in a criminal case. 4 Am J2d A & E § 345.

See **dispauper; dives costs; poverty affidavit.**

**information.** In common parlance, acquired knowledge or knowledging of facts which advise and lead to the acquisition of knowledge. In the technical legal sense, an accusation of the commission of a crime, otherwise known as a complaint or affidavit, upon which an accused is brought to trial and prosecuted for a misdemeanor or trivial offense or, if a felony is charged, whether there is probable cause for the accusation so that the accused should be held for, or bound over to await the action of the grand jury. 21 Am J2d Crim L § 441. In another sense of the term, a written accusation of crime preferred by a public prosecuting officer without the intervention of a grand jury. 27 Am J1st Indict § 27.

See **libel of information**.

**informational agencies.** Administrative agencies with investigatory or inquisitorial powers. 1 Am J2d Admin L § 85.

**information and belief.** See **upon information and belief**.

**information for an intrusion.** A prosecution against intruders upon the public domain; a method of redress for a trespass committed on the lands of the commonwealth in the nature of an action of trespass *quare clausum fregit*. *Commonwealth v Hite*, 33 Va (6 Leigh) 588.

**information in chancery.** A bill in chancery filed in behalf of the crown. For all practical purposes in modern times, the same as a bill in equity, although at one time distinguishable from an ordinary bill in equity in the regard that, since filed on behalf of the crown, all that was required was a statement of facts, it not being necessary for the crown to assume the position of a suitor or orator and pray for relief.

**information in equity.** See **information in chancery**.

**information in rem.** A proceeding instituted by the government for the forfeiture of goods imported from a foreign country, for failure to pay import duties thereon. *Boyd v United States*, 116 US 616, 29 L Ed 746, 6 S Ct 524.

**information in the exchequer.** The institution of a suit in the English court of exchequer on behalf of the king for money, or an action in the king's behalf for damages for trespass.

**information in the nature of quo warranto.** A remedy often considered to be the same as *quo warranto*, although actually a remedy substituted for the latter, an older remedy under writ of *quo warranto*. 44 Am J1st Quo W § 2. A common law proceeding more modern than the writ of *quo warranto*, and properly a criminal prosecution, instituted not only to fine a usurper, but to oust him from an office, franchise, or liberty. 44 Am J1st Quo W § 3.

See **quo warranto**.

**information of intrusion.** See **information for an intrusion**.

**information of title.** A common-law proceeding for the confirmation of title by escheat. 27 Am J2d Esch § 29.

**information return.** A return required by tax law of an employer, bank, corporation, etc. of the amounts paid by way of wages, salaries, interest, dividends, etc. to employees, customers, stockholders, etc.

**informatus non sum.** I am not informed,—a species of judgment by default which is given against a defendant when his attorney declares that he has no instruction to say anything in answer to the plaintiff, or in defense of his client. See 3 Bl Comm 397.

**informer.** One giving notice to the authorities of a violation of law; one who swears to an information for prosecution. In a more technical sense, one who prosecutes an action on behalf of the state for the recovery of a penalty, usually for the purpose of sharing in the penalty. 36 Am J2d Forf & P § 79. One who communicates to the revenue authorities information which he has of the violation of revenue laws; 34 Am J2d Fed Tax ¶ 9381, A person not an officer of the United States who detects and seizes any vessel, vehicle, merchandise, or baggage, subject to seizure and forfeiture under the customs laws and who reports the same to an officer of the

customs, or who furnishes to a United States attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws, perpetrated or contemplated. 21 Am J2d Cust D § 110.

**informer's action.** Broadly, any action brought by an informer. Technically, a qui tam action.

See **informer; qui tam action.**

**in foro.** In the forum; in the court; in the jurisdiction.

**in foro conscientiae.** In the forum of conscience, in good faith. See footnote in *Laidlaw v Organ* (US) 2 Wheat 178, 185, 4 L Ed 214, 215.

**in foro contentioso.** In the forum of contention; in a court of litigation.

**in foro domestico.** In the domestic forum; in the home.

**in foro ecclesiastico.** In the ecclesiastical court.

**in foro legis.** In a court of law.

**in foro saeculari.** In a secular court.

**infortunium.** Misfortune; misadventure; accident; ill luck.

**infra.** Below; beneath; under; within; during.

**infra aetatem.** Under age.

**infra annos nubile.** (Civil law.) Below marriageable age; that is, the condition of a woman under the age of twelve years.

**infra annum.** Within a year.

**infra annum clause.** The within a year clause,—that clause of the Statute of Frauds which relates to "any agreement that is not to be performed within the space of one year from the making thereof. 49 Am J1st Stat F § 23.

**infra annum luctus.** (Civil law.) Within the year of mourning. See 1 Bl Comm 457.

**infra brachia.** Within her arms.

**infra civitatem.** Within the state.

**infra comitatum vet extra.** Within the county or without.

**infra corpus comitatus.** Within the body of the county; within the physical boundaries of the county. *Waring v Clarke* (US) 5 How 441, 464, 12 L Ed 226, 237; *Commonwealth v Macloon*, 101 Mass 1.

**infraction.** A violation of law, particularly a traffic rule or regulation. *Ando v Woodberry*, 8 NY2d 165, 203 NYS2d 74, 168 NE2d 520. A breach or violation of a duty, or obligation.

**infra dig.** An abbreviation of **infra dignitatem.**

**infra dignitatem.** Beneath the dignity.

**infra dignitatem curiae.** Below the dignity of the court. Moore v Little (NY) 4 Johns Ch 183, 184.

**infra furorem.** During insanity; while insane.

**infra hospitium.** Within the inn. 29 Am J Rev ed Innk § 107.

**infra jurisdictionem.** Within the jurisdiction.

**infra ligeantiam domini regis.** Within the territory of our lord the king. Commonwealth v Macloon, 101 Mass 1.

**infra ligeantiam regis.** Within the allegiance of the king.

**infra maneria.** Within the manors.

**infra metes.** Within the metes or boundaries.

**infra moenia.** Within the walls; about the house.

**infra praesidia.** Within the walls; under the protection; within complete subjection.

**infra quatuor maria.** Within the four seas; that is, in England.

**infra quatuor parietes.** Within the four walls; in prison.

**infra regnum.** Within the kingdom.

**infra sex annos.** Within six years.

**infra tempos semestre.** Within six months.

**infra triduum.** Within three days.

**in fraudem creditorum.** In fraud of creditors.

**in fraudem legis.** In fraud of the law.

**In fraudem legis facit, qui salvis verbis legis, sententiam ejus circumvenit.** He works a fraud upon the law, who, observing the letter of the law, circumvents its spirit. State ex rel. Matthews v Forsyth, 147 Ind 466, 44 NE 593.

**infringement.** A violation of a right or privilege; an encroachment.

**infringement of copyright.** Copying, in whole or in part, in haec verba or by colorable variation, that which is protected under the Federal Copyright law; doing anything that the owner of a copyright alone has the right to do, without the consent of such owner. 18 Am J2d Copyr § 104.

**infringement of name.** The adoption by a corporation of a name so similar to that of another corporation, association, or firm as will result in confusion or deception. 18 Am J2d Corp § 156.

See **infringement of tradename.**

**infringement of patent.** A tort. Carbice Corp. v American Patents Development Corp. 283 US 27, 75 L Ed 819, 51 S Ct 334. The violation of a right secured to the inventor by the Patent Law. The manufacture, use, or sale of the patented process or instrumentality without authorization on the part of the patentee. Goodyear Shoe Machinery Co. v Jackson (CA 1 Mass) 112 F 146. The use of a patented invention beyond the valid terms of a license. General Talking Pictures Corp. v Western Electric Co. 305 US 124, 83 L Ed 81, 59 S Ct 116, reh den 305 US 675, 83 L Ed 437, 59 S Ct 355.

**infringement of trademark.** A use or imitation of one's trademark by another on the letter's goods in such manner that the purchasers of such goods are deceived, or likely to be deceived, and induced to believe that they were manufactured or sold by the owner of the trademark. 52 Am J1st Tradem § 84.

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**infringement of tradename.** Such a colorable imitation of a tradename that the general public, in the exercise of reasonable care, might think that it is the name of the one first appropriating it. 52 Am J1st Tradem §§ 127 et seq.

**infugare.** To chase; to compel to flee; to put to flight.

**infula.** A band or fillet; a coif; a head dress.

**in full.** In complete performance, especially in reference to an obligation for money. A phrase written upon a check or appearing in a letter accompanying a check, employed for the purpose that the acceptance of the check may operate as an accord and satisfaction. 1 Am J2d Accord § 18.

See **full indorsement; receipt in full**

**in full life.** Alive both civilly and physically.

**in full settlement.** A phrase indicating receipt of payment in full or acknowledging payment or performance accepted as the equivalent of complete performance or satisfaction.

Under a contract executed "in full settlement of all claims and demands," the phrase covers all rights, demands, claims or disputes as to property existing at the time of execution of the contract. Golden v Golden, 155 Okla 10, 8 P2d 42.

**in futuro.** In the future; at a future time.

**In generalibus versatur error.** Error thrives on general terms. Underwood v Carney (1 Cush) 55 Mass 285, 292.

in **generali passagio.** In the general passage; that is, in the journey with the Crusaders to the Holy Land.

**in genere.** In kind.

**In genere quicumque aliquid dicit sive actor sive reus, necesse est ut probat.** In general, whoever alleges anything, whether plaintiff or defendant, is under the necessity of proving it.

**ingenium.** A trick; a fraudulent scheme or device.

**ingenui.** Plural of **ingenuus**.

**ingenuitas.** The condition of a freeman or that of a manumitted slave.

**ingenuitas regni.** The freemen or yeomanry of the kingdom.

**ingenuus.** A native who was born a freeman.

**in gold or the equivalent thereof in United States legal tender notes.** A provision under which an obligation is completely discharged by a payment in legal tender notes, dollar per dollar. *Killough v Alford*, 32 Tex 457.

**in good faith.** With honesty, whether done negligently or not. Uniform Warehouse Receipts Act § 58.

**in good order.** See **good order**.

**in good safety.** A warranty phrase in marine insurance, amounting to a stipulation by the insured that the insurance shall not attach in case the vessel or cargo shall have been lost or damaged at the time appointed for the attachment of the risk. *Alexander, Ramsay & Kerr v National Union Fire Ins. Co.* (CA2 NY) 104 F2d 1006.

**in good standing.** See **good standing**.

**ingredients.** The two or more substances which are the components of a thing. The two or more substances from which a drug is fabricated. 25 Am J2d Drugs § 31.

**in gremio legis.** In the bosom of the law,—that is, in abeyance. A term expressive of the status of the fee during the period intervening between the creation and the termination of a contingent remainder. 28 Am J2d Est § 223.

**ingress.** Access; entrance; means of entry. A going in; entry; a right to enter.

**ingressu.** A writ of entry.

**ingressus.** Same as **ingress**.

**ingress and egress.** The right or privilege of entering upon land and departing therefrom.

**ingressus et egressus.** Ingress and egress; the right or liberty of entering upon land and departing therefrom.

**in gross.** Without deduction; considered as a whole. *Braun's Appeal*, 105 Pa 414. In one sum. At large; attached to a person rather than appurtenant to land.

See **alimony in gross; common in gross; easement in gross**.

**ingrossator.** Same as **engrosser**.

**ingrossing.** An obsolete form of **engrossing**.



**inhabitability.** The condition of premises such as to permit occupancy as living quarters.

**inhabitancy.** A term, the meaning of which may vary according to the context in which it appears. Literally, the state or condition of an inhabitant. For some purposes, a dwelling house. For other purposes, domicile or legal residence. Thayer v Boston, 124 Mass 132.

The word will not be construed as involving the idea of domicile where it reasonably appears that such meaning is not consistent with the legislative intent. 25 Am J2d Dom § 10.

See **inhabitant**.

**inhabitant.** A word impossible of precise and inclusive definition, since the meaning varies according to the context in which it appears, particularly where the matter is one of determining the legislative intent in a statute. 25 Am J2d Dom § 10. Narrowly, a dweller or householder, whether he be a tenant in fee simple, a life tenant, a tenant for years, a tenant at will, or one who has no interest in the premises other than that it is his habitation and dwelling. One having a domicile in a particular place. 25 Am J2d Dom § 10. One domiciled in or having a fixed residence in a given locality. Anno: 53 ALR 1394. One, who, although he may not be a citizen, dwells or resides in a place permanently, or has a fixed residence therein, as distinguished from an occasional lodger or visitor. Re Wrigley (NY) 4 Wend 602, 603. Synonymous with the term "resident" where used in a general sense in a statute respecting requisites to jurisdiction of an action for divorce. 24 Am J2d Div & S § 247. For income tax purposes:—sometimes regarded as the equivalent of a domiciled person; at other times regarded as a resident. Anno: 82 ALR 982. A corporation in the state of incorporation. 36 Am J2d For Corp § 34.

See **inhabitancy; inhabitants**.

**inhabitants.** The plural of **inhabitant**; synonymous with population for the purpose of a statute respect-

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ing the census. Ludwig v Board of County Comrs. 170 Neb 600, 103 NW2d 838.

**inhabited house duty.** An English tax or duty which was imposed upon each inhabited dwelling-house.

**in hac parte.** On this side; in this behalf.

**in haec verba.** In these words.

**In haeredes non solent transire actiones quae poenales ex maleficio sunt.** Actions which are penal and which arise out of the commission of crime do not pass to the heirs.

**inhalation.** The breathing in of air and sometimes, in unfortunate situations, of fumes, gases, dust, or other harmful elements. 58 Am J1st Workm Comp § 252. For some purposes, a voluntary act, as in an exception in a life or accident policy of death or injury from "inhalation" of gas. Travelers' Ins. Co. v Ayers, 217 Ill 391, 75 NE 506 (noting a division of authority.)

**inherent.** An inseparable quality or part of a thing or a person; intrinsic to a thing or a person. Anno: 23 ALR 1095.

**inherent condition.** A condition not added by a separate clause but contained in the agreement as an intrinsic part of the substantial provisions. A condition which is not newly imposed but previously existing.

**inherent covenant.** A covenant in a deed which relates directly to the grant.

**inherent danger in work.** A danger incidental to, and characteristic of, certain work, not one arising solely from the method of performance of the details of the work. Anno: 23 ALR 1095.

**inherent jurisdiction.** The jurisdiction of a court existing under a grant of general jurisdiction to the court, not by a grant of jurisdiction for a specific purpose. *Kelly v Conner*, 122 Tenn 339, 123 SW 622.

See **inherent power of court.**

**inherently dangerous article.** An article fraught with danger lying in the character and content of the article, albeit the disastrous consequences are caused immediately by an external force. 46 Am J1st Sales § 814. An article, the use of which is dangerous because of the nature or character of the article, for example, gun powder. 46 Am J1st Sales § 815.

**inherent power.** The doctrine that the federal government has sovereign and inherent powers in addition to the powers given to it expressly or impliedly by the United States Constitution; a doctrine refused recognition as law by the United States Supreme Court. *Kansas v Colorado*, 206 US 46, 51 L Ed 956, 27 S Ct 655.

**inherent power of court.** A power essential to the very existence of the court or its ability to function in dispensing justice; the power to punish contempt, 17 Am J2d Contpt § 62; the power to grant a continuance in the interest of justice. *State ex rel. Buck v McCabe*, 140 Ohio St 535, 24 Ohio Ops 552, 45 NE2d 763. A power included within the scope of a court's jurisdiction which a court possesses irrespective of specific grant by constitution or legislation; a power which can neither be taken away nor abridged by the legislature. *State ex rel. Ricco v Biggs*, 198 Or 413, 255 P2d 1055, 38 ALR2d 720.

**inherent power of officer or agent.** A power native to the position, although it may not be sanctioned by an express grant of authority. 10 Am J2d Banks § 99.

**inherent right.** A term denoting the functional character of rights of members of a community in an unorganized state. *State ex rel. McGrauel v Phelps*, 144 Wis 1, 128 NW 1041.

See **fundamental rights and privileges.**

**inheretrix.** An heiress; a woman who inherits property.

**inherit.** To take as an heir at law by descent. 23 Am J2d Desc & D § 1. The succession to the property of a decedent by those entitled to it. *Glascott v Bragg*, 111 Wis 605, 87 NW 853. Technically, to take by descent or succession rather than by will. *Warren v Prescott*, 84 Me 483, 24 A 948. But, appearing in a will, sometimes construed to include a taking by devise. 57 Am J1st Wills § 1329.

**inheritable blood.** Hereditary blood; relationship by blood through which an inheritance may be transmitted. See 2 Bl Comm 254.

**inheritance.** In strict usage, the taking of property by descent or intestate succession. In common parlance, the taking of real or personal property by either will or intestate succession. 28 Am J Rev ed Inher T § 8; 57 Am J1st Wills § 1329. An estate which has descended to the heir and has been cast upon him by the single operation of law. *Estate of Donahue*, 36 Cal 329. Property inherited; in common usage, property acquired by descent or through a will.

As used in a provision of the Bankruptcy Act that all property which vests in the bankrupt within six months after bankruptcy by bequest, devise, or "inheritance" shall vest in the trustee, the word is confined to property, both real and personal, coming to the bankrupt by intestate succession and is not to be distorted by making it apply to something that accrues as a result of a death but is not acquired through intestate succession. Thus, the word, could not include a recovery under the Federal Employers' Liability Act. *Friedman v McHugh*, 168 F2d 350, 11 ALR2d 733.

See **descent; words of inheritance.**

**Inheritance Act.** The statute of 3 and 4 Wm. IV., c. 106, which amended the English law of descents.

For an outline of this statute see footnote in 2 Cooley's Blackstone, Commentaries 201.

**inheritance tax.** A succession tax; a tax on the privilege of taking property of a decedent in accordance with law or on the right to receive property of a decedent. Not a tax on decedent's privilege of disposition of his property. 28 Am J Rev ed Inher T § 8. A tax on the right to successioty to property, and not on the property itself, and collectible out of each specific share or interest, and not out of the general property of the estate. Re Estate of Kennedy, 157 Cal 517, 108 P 280. Not a debt. Anno: 150 ALR 1287; 47 ALR2d 1015.

Although the term "inheritance tax" has been sometimes so employed as to include taxes of the nature of estate duties, proper regard for the etymology of the term is sufficient to restrain extension of its meaning beyond succession duties. The term as used in a private document, however, may well be deemed to have been intended to cover taxes

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which are technically estate taxes as well as those which are strictly inheritance taxes. 28 Am J Rev ed Inher T § 8.

See **collateral inheritance tax; estate tax; lineal inheritance tax; net estate; net succession; progressive tax.**

**inherited and equally divided.** A phrase in a will suggestive of an immediate taking of the interest devised. 57 Am J1st Wills § 1329.

**inhibition.** A prohibition; a writ to prohibit a judge from proceeding further in a matter.

**inhibition against a wife.** A writ to prohibit business transactions with a married woman.

**in his demesne.** See **demesne, as of fee.**

**in his demesne as of fee.** See **demesne, as of fee.**

**In his enim quae sunt favorabilia animae, quamvis sunt damnosa rebus, fiat aliquando extentio statuti.** In matters which are good for the soul, though they may be injurious to material things, some elasticity should be given to the statute.

**in his own favor.** As a phrase of a statute rendering incompetent the testimony of the surviving party to a contract in an action between him and the personal representative of the deceased party:—testimony which will tend to establish a present legal interest in the contract of cause of action to which it has reference. Proulx v Parrow, 115 Vt 232, 56 A2d 623.

**in his own right.** A phrase which excludes acquisition in a clearly representative capacity. Sigler v Sigler, 98 Kan 524, 158 P 864.

**in his presence.** See **presence.**

**In his quae de jure communi omnibus conceduntur consuetudo alicujus patriae vel loci non est allegenda.** In those matters which in law are conceded to be common to all, a custom of a particular county or place should not be alleged.

**in his verbis.** In these words.

**in hoc.** In this.

**inhonestus.** Dishonorable; shameful; disgraceful.

**inhumanity.** See **inhuman treatment.**

**inhuman treatment.** Cruelty; want of mercy.

See **cruel** and unusual punishment; cruelty to animals; inhuman treatment which endangers life.

**inhuman treatment which endangers life.** A ground of divorce under some statutes; not confined to physical or violent acts; may consist wholly of abusive and insulting words, much depending upon the moral, mental, and spiritual qualities of the victim. Thompson v Thompson, 186 Iowa 1066, 173 NW 55, 5 ALR 710; Ekerson v Ekerson, 121 Or 405, 255 P 480.

**in hunc modum.** In this manner.

**in iisdem terminis.** In the same terms.

**in individuo.** In its individual character; that is intact; in specie. Wright v Payne, 62 Ala 340.

**in infinitum.** To infinity; without end or limit.

**in initialibus.** In the beginnings.

**in initio.** In the beginning; at the commencement.

**in initio litis.** At the beginning of the action or litigation.

**in integrum.** Anew; over again.

**in interest.** Interested; having an interest.

See **real party in interest.**

**in interstate commerce.** See **engaged in interstate commerce; interstate commerce.**

**in invidiam.** In prejudice of; to the prejudice.

**in invitum.** Against the will; without consent.

**in ipsis faucibus.** In the very entrance.

**in ipso articulo temporis.** At the very moment of time; on the very instant.

**Iniquissima pax est anteponenda justissimo bello.** A most unfavorable peace is to be preferred to a war which is most just. Root v Stuyvesant (NY) 18 Wend 257, 305.

**iniquity.** Want of justice. A judicial error; an error of the court or judge.

**Iniquum est alios permittere, alios inhibere mercaturam.** It is unfair to permit some to carry on trade and to prohibit others.

**Iniquum est aliquem rei sui esse judicem.** It is improper for a person to be a judge in his own cause.

**Iniquum est ingenuis hominibus non esse liberam rerum suarum alienationem.** It is unjust for freemen not to be at liberty to alienate their own property.

**in issue.** Regularly and properly in controversy before the court. *Timken Roller Bearing Co. v Pennsylvania Railroad Co.* 273 US 665, 71 L Ed 829, 47 S Ct 550.

**initial.** Adjective: The first. Noun: The first letter of a name, often used in place of the name in a signature, especially in place of the middle name. Verb: To sign with an initial or initials.

See **initials.**

**initial carrier.** The first carrier in a pair or series of connecting carriers, the carrier who received the goods from the shipper. 14 Am J2d Car § 700.

It has also been held that the term refers to the carrier contracting with the shipper, and is not necessarily the one whose line constitutes the first link in transportation. *Knapp v Minneapolis, St. P & S. S. M. Ry. Co.* 33 ND 291, 156 NW 1019.

**initial court.** See **nisi prius.**

**initialia testimonii.** The preliminary examination of a witness.

**initialibus.** See **in initialibus.**

**initial notice of loss.** A summary or abbreviated form of notice of loss of, or damage to, goods in the possession of a carrier, sometimes required by

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stipulation in the contract of carriage. 14 Am J2d Car § 584.

**initialing protest.** Same as noting protest.

**initials.** The first letters of a person's christian name or names and the first letter of his surname or family name, e.g. J. F. K. for John F. Kennedy. 38 Am J1st Name § 7. Sufficient as a designation of the creditors of a bankrupt in the schedule of creditors. 9 Am J2d Bankr § 373. Sufficient as a signature of a negotiable instrument. *Merchants Bank v Spicer (NY)* 6 Wend 443. Insufficient as a signature binding a person as bail. 8 Am J2d Bail § 64. Not a proper signature to a bill of exceptions. 4 Am J2d A & E § 466.

**initiate.** Verb: To start a movement. To commence something, for example a proceeding. To propose for approval. *Idaho Power Co. v Thompson (DC Idaho)* 19 F2d 547. To bring a person into an activity, a fraternal order, association, or social club. Noun: One newly brought into a fraternal order, association, or club.

**initiate curtesy.** See **curtesy initiate.**

**initiate tenant by curtesy.** See **curtesy initiate.**

**initiated law.** A statute enacted by the people as an initiative measure.

See **initiative.**

**initiation.** A ceremony, formal or informal, by which one is received into a fraternal order, social group, or membership corporation.

**initiation fee.** A sum paid by a member to a club or other association for the privilege of joining the club. *Masonic Country Club v Holden* (CA 6 Mich) 18 F2d 553. The charge imposed by a labor union upon one joining the union.

**initiative.** The power reserved to the people to propose laws and amendments to the constitution and to enact or reject the same at the polls generally independent of the legislature. 28 Am J Rev Init & R § 2. The name which has been given to a proceeding which has been authorized in a number of states by constitutional amendments of comparatively recent adoption, whereby the people reserve to themselves the right to propose laws to be enacted by the legislature and submitted to the vote of the electors of the state. 28 Am J Rev ed Init & R §§ 3 et seq. As applied to municipalities:-the power reserved to the people of a municipality residing therein to propose laws or ordinances and amendments to the charter. 37 Am J1st Mun Corp § 204.

**in itinere.** On the journey, particularly a journey made with the purpose of acquiring a new domicile. 25 Am J2d Dom § 35. On the voyage; on the circuit; in transit.

**initio.** A beginning; a commencement.

See **ab initio**.

**initio litis.** See **in initio litis**.

**initium.** A beginning; a commencement.

**injection.** See **hypodermic injection**.

**in jeopardy.** A technical expression used in stating the rule of former jeopardy or double jeopardy; on trial before a court of competent jurisdiction, on an indictment sufficient in form and substance to sustain a conviction, the jury having been charged with deliverance, that is, having been impaneled and sworn. 21 Am J2d Crim L §§ 175, 176.

**in judgment.** In a court. Merged in judgment.

See **ester in judgment**.

**In judiciis, minori aetati succurritur.** Persons of minor age are assisted in judicial proceedings.

**in judicio.** In the presence of a judge; before a judge; in court.

**In judicio non creditur nisi juratis.** In a court of justice no one is believed who is not sworn.

**injunction.** A term of dual meaning, having reference to a suit to enjoin or to the writ, process, or restraining order issued pursuant to an order or decree obtained in the suit. 28 Am J Rev ed Inj § 2. In the former aspect, a form of action in equity which is designed to protect a plaintiff from irreparable injury to his property or other rights of which a court of equity will take cognizance, by prohibiting or commanding the doing of certain acts. *Ladner v Siegel*, 298 Pa 487, 148 A 699, 68 ALR 1172. In the latter aspect, a formal command of the court couched in the form of an order, writ, or process, as the local practice may require, directing the persons named therein to refrain from doing certain specified acts which appear to be against equity or conscience, or, where the relief is mandatory in form, commanding them to take certain steps to undo the wrong or injury with which they are charged—a command to refrain from, or to do a particular act. 28 Am J Rev ed Inj § 2.

In the legal usage of the term in some jurisdictions, reference to an "injunction" is to what is known in other jurisdictions as a temporary injunction. In such jurisdictions, an injunction in the sense of a final order which determines a controversy is deemed essentially the same as any other judgment or decree in equity, notwithstanding the order may include the enjoining of the performance of an act or an order requiring the performance of an act.

See **common injunction; irreparable injury; mandatory injunction; preliminary injunction; prohibitory injunction; restraining order; special injunction; temporary injunction.**

**injunction against suit.** See **stay.**

**injunction bond.** A bond required of the plaintiff as a condition of obtaining relief by a preliminary or interlocutory injunction. 28 Am J Rev ed Inj § 301.

**injunction in labor dispute.** A pertinent classification because of the prevailing pendency to regulate such relief closely by statute. 31 Am J Rev ed Lab §§ 490 et seq.

**injunction pendente lite.** A temporary injunction which is to operate pending a hearing of the suit on its merits, or until the final decree of the court is rendered. 28 Am J Rev ed Inj § 12.

**in jure.** In law; in right.

**injure.** To harm; to hurt; to wound, but short of causing death at the time. *Interstate Business Men's Acci. Asso. v Dunn*, 178 Ky 193, 198 SW 727, 6 ALR 1333, 1336. To harm, damage, or reduce the value of property directly, or indirectly, as by obstructing access *Jones v Erie & Wyoming Valley Railroad Co.* 151 Pa 30, 46.

**in jure alterius.** In the right of another.

**In jure causa proxima non remota spectatur.** In law,

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the proximate, and not the remote, cause is regarded.

**injured.** Hurt, damaged, wounded.

See **injure.**

**injured party.** A person wronged by the action of the other. *Lee v Lee*, 182 NC 61, 108 SE 352. The plaintiff; a person having a right of action, particularly a person having a ground of divorce.

A statute specifying incurable insanity as a permissible cause for divorce does not, in providing that divorces may be decreed upon the application of the "injured party," make the divorce unattainable because there is no injury to the other party to the marriage, the term referring only to a husband or wife who, by the plain terms of the act, is intended to have a right of action for divorce on the grounds of incurable insanity. *State v Brown*, 213 Ind 118, 11 NE2d 679, 113 ALR 1243.

See **innocent or injured person.**

**In jure non remota causa sed proxima spectatur.** In law, not the remote cause, but the proximate cause is regarded. *Maryland Steel Co. v Marney*, 88 Md 482, 42 A 60.

**in jure proprio.** In a person's own right.

**injuria.** A wrong; the violation of a legal right. See 3 Bl Comm 2. In the Roman law, a legal wrong for which redress would be granted, whether against the person or against property. *Pavesich v New England Life Ins. Co.* 122 Ga 190, 50 SE 68. A tortious act, whether intentional or accidental. *Wright v Chicago & Northwestern Railway*, 7 111 App 438, 446.

**injuria absque damno.** Wrong without damage. 1 Am J2d Act § 69.

But a direct invasion of a legal right imports damage. 52 Am J1st Torts § 6.

**injuria atque damnum.** The violation of a legal right coupled with actual loss.

**Injuria fit ei cui convicium dictum est, vel de eo factum carmen famosum.** An injury is done to him of whom reviling things are said, or concerning whom a defamatory poem is composed.

**Injuria illata judici, seu locum tenenti regis, videtur ipsi regi illata maxime si fiat in exercentem officium.** An injury offered to a judge or to a person holding the place of the king, seems to be as if it were offered to the king himself, if done while the person is in the exercise of his office.

**Injuria non excusat injuriam.** An injury does not excuse an injury.

**Injuria non praesumitur.** Injury is not presumed.

**Injuria propria non cadet beneficium facientis.** No benefit shall accrue to a person from his own wrongdoing.

**Injuria servi dominum pertingit.** The wrongdoing of the servant attaches to the master.

**injuria sine damno.** The violation of a legal right without damage,—an obvious impossibility as pointed out by Lord Holt, for the reason that every injury imports damage in the nature of it. See 52 Am J1st Torts § 6.

**injuriously affected.** As a condition of the right to damages in eminent domain, the consequences of an act which would have given a right of action if the act had not been authorized by the statute. Meriiphis & Charleston Railroad Co. v Birmingham, Sheffield & Tennessee River Railroad Co. 96 Ala 571, 11 So 642.

**injury.** The invasion of a legal right. Bowman v Davenport, 243 Iowa 1135, 53 NW2d 249, 63 ALR2d 853. To be distinguished from "damage," which is the loss, hurt, or harm resulting from the "injury." 22 Am J2d Damg § 1.

As the word appears in an application for life, health or accident insurance:—a substantial injury affecting the general health. 29 Am J Rev ed Ins § 750. As the term is used in a workmen's compensation statute:—any lesion or change in the structure of the body, causing harm thereto and a lessened facility of its natural and normal use. Sullivan's Case, 265 Mass 497, 164 NE 457, 62 ALR 1458. Damage or harm to the physical structure of the body, although not necessarily presenting external or visible signs of its existence, 58 Am J1st Workm Comp § 194; sometimes construed to include simple and common diseases, 58 Am J1st Workm Comp § 244; including also nonoccupational diseases and disorders of an idiopathic nature, as well as those having a definitely traumatic origin. 58 Am J1st Workm Comp § 244.

**injury arising by accident.** See **accident.**

**injury arising out of employment.** The existence of a direct cause and effect relationship between the injury and the employment. Gage v Connecticut General Life Ins. Co. (Mo App) 273 SW2d 761, 47 ALR2d 1234.

**injury by the elements.** Such an injury as results from the operation of the most common destructive forces of nature against which buildings need to be protected. Hanchett v O'Reilly, 76 NJL 212, 68 A 1066.

**injury in his property.** An injury to his property; also the diminishing of his property by a transfer of property, or a payment of money, induced by fraud. Wheeler-Stenzel Co. v National Window Glass Jobbers Asso. (CA3 NJ) 152 F 864. Harm or damage resulting to his property directly or indirectly. Jones v Erie & Wyoming Valley Railroad Co. 151 Pa 30, 46.



**injury in person or property.** An expression in the disjunctive, often used in statutes for comprehensive effect in providing for recovery of damages caused by a violation of the statute, e.g., in a civil damage or dramshop act. Anno: 6 ALR2d 798.

**injury to life or limb.** A personal or bodily injury. *Bailey v Bailey*, 97 Mass 373. Not limited to such an injury as results in death or the actual loss of a limb. *Iola v Birmbuam*, 71 Kan 600, 81 P 198.

See **bodily injuries; personal injury**.

**injury to property.** Something materially affecting the capacity of particular property for ordinary use and enjoyment. *Evans v Reading Chemical Fertilizing Co.* 160 Pa 209, 219, 28 A 702.

**injury to the person.** See **personal injury**.

**In iustitia recipienda, minimo de regno suo comparetur.** In receiving justice, he

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should be placed on a level with the meanest person in the kingdom. *Chisholm v Georgia (US)* 2 Dal 419, 460, 1 L Ed 440, 458.

**Injustum est, nisi tota lege inspecta, de una aliqua ejus particula proposita judicare vel respondere.** Without having examined the whole of a law, it is unfair to judge or to give an opinion concerning some particular provision of it.

**in jus vocando.** By calling or summoning into court. See 3 Bl Comm 279.

**in jus vocare.** To call or summon to court.

**ink.** See **recording; writing**.

**in kind.** In produce or goods in place of money. 32 Am J1st L & T § 61. In the same or a similar commodity or kind of goods.

As the expression is used in a statute providing that the commissions of a tax collector shall be paid "in kind," it is held to mean that the commission shall be paid in the same kind of funds that the collector has legally received in payment of the tax. *Wilson v State*, 51 Ark 212, 213.

See **in specie**.

**inlagare.** To restore an outlaw to the protection of the law.

**inlagation.** Restoration of an outlaw to the protection of the law.

**inlagh.** A person who is under the protection of the law.

**inland bill.** A bill of exchange which is, or on its face purports to be, both drawn and payable within the state. 11 Am J2d B & N § 20.

**inland bill of exchange.** Same as **inland bill**.

**inland marine insurance.** A term suggestive of risks carried upon ships or cargoes to be found on inland waters of the United States but employed by insurers in an indiscriminate manner for a much broader category of insurance, including various risks having no relation to transportation by water, even some, such as floating policies on jewels, clothing, etc., which have only a tenuous connection with transportation of any kind.

**inland navigation.** Navigation upon waters lying wholly within the boundaries of a state, and hence not including any of the great lakes. *Moore v American Transportation Co.* (US) 24 How 1, 16 L Ed 674. Navigation upon inland waters.

See **inland rules of navigation; inland waters.**

**inland rules of navigation.** Special navigation rules made by local authority relative to river, lake, or other inland water. 33 USC § 1092.

**inland waters.** Rivers, lakes, great ponds, and other bodies of water within, or partly within, the boundaries of the United States, which are not tidal waters. *Chamberlain v Hemingway*, 63 Conn 1, 27 A 239.

"All the gulfs, all the inland seas, form only portions detached, but not entirely separated from that universal sea denominated the ocean." *The Orient* (CC La) 16 F 916, 920.

As the expression "inland waters of the United States" was used in the act of Congress regulating prize proceedings and the distribution of prize money, it referred to all waters of the United States upon which a naval force could go, other than bays and harbors on the sea coast. In most instances, property of the enemy on them could be taken, if at all, by an armed force, without the aid of vessels of war. *United States v Vessels of War* (US) 16 Otto 607, 27 L Ed 286, 1 S Ct 539.

See **Great Lakes.**

**inland waters of the United States.** See **inland waters.**

**inlantal.** Same as **demesne land.**

**inlaughe.** (Saxon.) Under the protection of the law.

**inlaw.** To restore from a condition of outlawry back to the protection of the law; to pardon a person of attainder.

**in-law.** A blood relative of one's spouse. A relative by marriage.

See **brother-in-law; sister-in-law.**

**in law.** As it is according to law. Existing under the law. Implied by law; presumed by law. In law, as distinguished from equity.

**inleashed.** Trapped; ensnared.

**in lecto.** In bed.

**in lecto mortali.** On one's deathbed.

**in libera eleemosyna.** In free alms. See 2 Bl Comm 101. Same as **frankalmoign tenure.**

**in libero socagio.** In free socage.

See **free socage.**

**in lieu of.** In substitution for or in place of. Ordinarily implying the existence of something to be replaced. *Lamb v Milliken*, 78 Colo 564, 243 P 624.

But a mere statement in a lease that a certain paragraph is "in lieu of prior paragraphs does not necessarily eliminate such prior paragraphs. *Milan Bldg. Co. v Dannelley* (Tex Civ App) 57 SW2d 345.

**in limine.** On the threshold; at the outset.

**in linea recta.** In the direct line.

**in litem.** In or during the suit or litigation.

**in loco.** In the place.

**in loco parentis.** See **person in loco parentis.**

**in majorem cautelam.** By way of greater caution; for greater security.

**in majorem cautelam, si qua forte sit irregularitas.** For greater caution, if perchance there might be irregularity.

**In majore summa continetur minor.** The lesser sum is contained or included in the greater.

**in malam partem.** In an evil sense.

**In maleficiis voluntas spectator, non exitus.** In criminal offenses, the intent and not the outcome is regarded.

**In maleficio, ratihabitio mandato comparator.** In tort, a ratification is regarded as a command.

**in manu.** In his hand.

See **with the mainour.**

**inmate .** A co-lodger; a person who lives in the same abode with another or others. A person confined

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with others in a state prison, penitentiary, jail, state hospital, etc.

**In maxima potentia minima licentia.** Where power is greatest freedom is least.

**In mediam viam tutissimus ibis.** In the middle of the road you will journey most safely. Bledsoe v Nixon, 69 NC 89.

**in medias res.** Into the midst of the thing; into the meat of the matter.

**In mercibus illicitis non sit commercium.** There should be no commerce in illicit merchandise.

**in mercy.** Liable to amercement.

At the early common law, if a plaintiff failed in his suit, he was at the mercy of the king with regard to the fine which was to be imposed upon him for his false claim. Day v Woodworth (US) 13 How 362, 14 L Ed 181.

**in mero jure.** Of mere right; on the mere right.

**in misericordia.** Liable to amercement for unjust detention from the plaintiff.

At one time, by the common law, if the plaintiff failed to recover, he was amerced pro falso clamore (sentenced to pay a fine for bringing a false claim), but if he recovered judgment, the defendant was in misericordia for his unjust detention of the plaintiff's debt. Day v Woodworth (US) 13 How 362, 14 L Ed 181.

**in misericordia domini regis pro fatso clamore suo.** At the mercy of the king for his false claim. See 3 Bl Comm 376.

**in mitiori sensu.** In the milder or less harmful sense.

It was a doctrine of the early common law, since departed from, that when words charged as defamatory were capable of two constructions, the court would presume that they were intended to be used in the less harmful sense. *Bash v Sommer*, 20 Pa 159, 162.

in **modum assisae.** In the manner of an assize.

**in mora.** In delay; in default.

**in mortmain.** See **mortmain.**

**in mortu manu.** In mortmain.

See **mortmain.**

**inn.** A public house of entertainment for all who choose to visit it. 29 Am J Rev ed Innk § 2. Elaborately defined, a house held out to the public by the proprietor thereof as a place where transient persons who come in a fit condition will be received and entertained as guests for compensation. 29 Am J Rev ed Innk § 2.

**innamium.** A pledge.

**in naturali laxitate.** In a natural state of freedom; the unconfined and unrestrained state of wild animals. *Geer v Connecticut*, 161 US 519, 524, 40 L Ed 793, 795, 16 S Ct 600.

**in naufragorum miseria et calamitate tanquam vultures ad praedam currere.** To run like vultures to their prey amidst the misery and misfortune of those suffering shipwreck. See 1 Bl Comm 293.

**innavigability.** The state of a ship which is unseaworthy; the state of a waterway which is impassable for ships.

**innavigable.** Descriptive of the condition of innavigability.

See **innavigability.**

**inner barrister.** An English barrister who is privileged to plead within the bar.

**inner house.** The superior department of the high court of sessions in Scotland.

**inner temple.** See **inns of court.**

**innings.** Tide lands which have been reclaimed by man. The successive periods in a baseball game in which both teams come to bat. Figuratively, opportunity.

**innkeeper.** The proprietor of an inn. 29 Am J Rev ed Innk § 2.

See **inn.**

**innkeeper's lien.** The lien of the proprietor of an inn or hotel upon the effects of a guest in the inn or hotel for the amount of unpaid reasonable charges for the keeping and entertainment of the guest. 29 Am J Rev ed Innk § 145.

**innocence.** Freedom from guilt.

See **presumption of innocence.**

**innocent.** Free from wrongdoing or from guilty participation therein. Not guilty.

**innocent agent.** A person who acts in violation of law, being moved to the act by another, but incurs no guilt, because either he lacks the capacity to commit a crime or was entirely unaware of the circumstances which made his act a violation. *Smith v State*, 21 Tex App 107, 132, 17 SW 552.

**innocent conversion.** See **technical conversion.**

**innocent conveyance.** A conveyance which transfers only the title of the grantor, as opposed to a tortious conveyance which purports to convey a larger estate than the grantor has.

**innocent holder for value.** One who has acquired property from another for value without notice of a third person's equities in or claims to the property.

In order that a payee of trust funds may prevail as an innocent holder for value, in addition to being innocent of its trust character at the time of its receipt, he must have parted with some value, suffered some detriment, or forborne the exercise of some right which he might otherwise have asserted. *Aetna Casualty & Surety Co. v Local Building & Loan Asso.* 162 Okla 141, 19 P2d 612, 86 ALR 526.

See **holder in due course; innocent indorsee.**

**innocent indorsee.** One who has acquired the instrument by indorsement without notice of defects in the instrument, prior dishonor, or of a third person's equities in or claims to the instrument. *Christensen v Farmers' Warehouse Asso.* 5 ND 438, 67 NW 300.

See **holder in due course.**

**innocent or injured person.** The status of a party to an action for annulment of a marriage on the ground of a prior undissolved marriage, which is negated by knowledge of the existence of the prior marriage at the time of entering into the marriage sought to be dissolved. 4 Am J2d Annul § 56.

See **innocent party.**

**innocent party.** One who did not participate in the disputed transaction understandingly, intention

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ally, or of his own free will, and could not have ascertained the facts by the exercise of due diligence. 27 Am J2d Eq § 22.

See **innocent or injured person.**

**innocent purchaser.** See **bona fide purchaser.**

**innocent trespasser.** One who trespasses under color of right, or in good faith by mistake. *Hughett v Caldwell County*, 313 Ky 85, 230 SW2d 92, 21 ALR2d 373.

**innocent woman.** A woman who has never had illicit sexual intercourse with a man. *State v Shoemaker*, 101 NC 690, 693.

**innominate.** (Civil law.) Unclassified; not assigned to any particular class.

**In nomine Dei, Amen.** In the name of God, Amen.

Formerly, a will was ordinarily thus begun. Today it is common practice to begin a will with the same words in English.

**innonia.** An inclosure; a close.

**In nostra lege unum comma evertit totum placitum.** In our law one comma overturns a whole plea. See 3 Bl Comm 410, note.

**innotescimus.** We make known.

**in notis.** In the notes.

**innovation.** A change in method. A novation; a mode of extinguishing one obligation by another.

**In novo casu novum remedium apponendum est.** In a novel case, a new remedy must be applied.

**innoxiare.** To exculpate; to purge an accused person of guilt.

**inns.** See **inns; inns of chancery; inns of court.**

**inns of chancery.** Associations of solicitors in London, existing originally for the purpose of instruction in chancery law and practice, later as preparatory schools for students intending to enter one of the inns of court, both of which functions have long been in disuse.

See **Barnard's Inn; Clifford's Inn.**

**inns of court.** Associations of lawyers at London existing for the purpose of the instruction of students in the law and the practice of law and of calling men to the bar, the four principal inns being The Inner Temple, The Middle Temple, Lincoln's Inn, and Gray's Inn.

See **Gray's Inn; Farydon Inn; inns of chancery.**

**in nubibus.** Among the clouds, that is, in abeyance. A term expressive of the status of the inheritance or fee during the period intervening between the creation and the termination of a contingent remainder, meaning in abeyance. 28 Am J2d Est § 223.

**in nuce.** In a nutshell; concisely.

**innuendo.** A meaning conveyed by indirection. An allegation in the complaint, declaration, or petition, in an action for defamation, the purpose of which is to show the meaning of the publication or utterance and bring out its defamatory character and effect by reference to the antecedent matters contained in the inducement and the colloquium. 33 Am J1st L & S § 241.

**in nullius bonis.** In the goods of no one.

**in nullo est erratum.** No error has been committed. A form of pleading filed by the defendant in error in proceedings for review by writ of error. *Edwards v Elliott* (US) 21 Wall 532, 549, 22 L Ed 487, 489.

**In obscura voluntate manumittentis, favendum est libertati.** In the case of a doubtful wish for the manumission of a slave, liberty is to be favored.

**In obscuris, inspicere solere quod verisimilius est, aut quod plerumque fieri solet.** In obscure or doubtful matters, it is customary to inquire into what is probable or what is ordinarily done.

**In obscuris, quod minimum est sequimur.** In obscure or doubtful matters, we follow that which is the least so.

**in octavis.** In eight (days).

**inoculation.** The injection of a virus into the body for the purpose of causing a disease in a mild form, thereby building up an immunity. 25 Am J1st Hlth § 35.

**in odium spoliatoris.** To the prejudice of the pirate; a presumption applied in infringement of patent cases. Coffin v Ogden (US) 18 Wall 120, 21 L Ed 821, 823.

**In odium spoliatoris omnia praesumuntur.** All things are presumed to the prejudice of the pirate or the despoiler.

**inofficiosum.** Neglectful of natural duty, or contrary thereto; unkind; unnatural.

**inofficiosum testamentum.** An undutiful or unkind will. See 2 Bl Comm 503.

**inofficious testament.** Same as **inofficious will.**

**inofficious will.** A will omitting the testator's nearest relatives; a will deficient in natural duty. See 2 Bl Comm 503.

**In omni actione ubi duae concurrunt districtiones, videlicet, in rem et in personam, illa districtio tenenda est quae magis timetur et magis ligat.** In every action where two distresses concur, that is to say, in rem and in personam, that distress will hold which is the more dreaded, and which binds the more firmly.

**in omnibus.** In all things, in everything.

**in omnibus causis motis et movendis.** In all cases pending and in all cases which may be instituted. Per Holt, C. J., in Parker v Kett (Eng) 1 Salk 95, 96.

**In omnibus contractibus, sive nominatis sive innominatis, permutatio continetur.** In all contracts, whether nominate or innominate, a consideration is contained.

**In omnibus imperatoris excipitur fortuna; cui ipsas leges Deus subjecit.** The property of the emperor should in all matters be excepted; with respect to him, God has subjected the laws themselves. 1 Bl Comm 239.

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**In omnibus obligationibus in quibus dies non ponitur, praesenti die debetur.** (Civil law.) In all obligations in which no time is designated for their fulfillment, the obligation is presently due.

**In omnibus poenalis judiciis, et aetati et imprudentiae succurritur.** In all penal judgments, both youth and lack of prudence are favored.

**In omnibus quidem, maxims tamen in jure, aequitas spectanda sit.** In all matters indeed, but especially in matters of right, equity should be regarded.

**In omni re nascitur res quae ipsam rem exterminat.** In all things, something arises which exterminates the thing itself.

**in open court.** Before the court while it is in public session, as distinguished from a judge or judges of the court in chambers. *Conover v Bird*, 56 NJL 228, 230, 28 A 428.

See **open court**.

**inoperative deed.** A deed ineffectual to convey legal title, although possibly operating contractually. 23 Am J2d Deeds § 137.

**inoperative patent.** A patent for an invention which fails to secure to the inventor a monopoly of his actual invention. *National Nut Co. v Sontag Chain Stores Co.* (CA9 Cal) 107 F2d 318.

**inoperative will.** A will which is ineffective because of statutory restrictions upon the disposition attempted by the will. *Re Houston*, 383 Pa 466, 119 A2d 304.

**inopportune.** Unseasonable in time; at the wrong time. *Pennsylvania Co. v Sloan*, 125 Ill 72, 80.

**inops consilii.** Without the aid of counsel. *Den ex dem. Davenport v Wynne*, 28 NC (6 Ired L) 128.

**in or about.** A phrase having reference to an area and expressing the idea of physical proximity. 58 Am J1st Workm Comp § 86.

**inordinatus.** An intestate; a person who dies without leaving a valid will.

**in ore.** In the mouth.

**in or on a motor vehicle.** A clause depicting the risk of loss under a policy of accident insurance which, as such, is to be construed in favor of the insured. 29 Am J Rev ed Ins § 262. Having the body in some sort of physical contact with the automobile, not necessarily sitting in the place provided for the seating of passengers. 29A Am J Rev ed Ins § 1241.

The insured does not have to be actually or wholly on the car in the sense of being entirely off the ground. In some instances, the coverage has been held to extend to situations in which there was actually no physical contact, before injury, between the person injured and the automobile, it appearing, however, that such person was either preparing to enter the automobile or in close proximity thereto after alighting. 29A Am J Rev ed Ins § 1241.

**in or on a public or passenger conveyance.** Within the meaning of a provision of an accident policy which depicts the coverage or a double indemnity provision of a life insurance policy: riding inside the conveyance and, as well, riding on the platform or even while being in the act of boarding or alighting from a bus or car. 29A Am J Rev ed Ins § 1254.

**in or upon.** See phrases beginning **in or on**.

**in ovo.** In the egg; in the first stage; at the beginning.

**in pacato solo.** On peaceful soil.

**in pace Dei et regis.** In the peace of God and the king.

**in pais.** In the country; outside of the court; away from court; out of court. In free translation:—in an informal manner rather than in a formal attempt to comply with the law.

See **estoppel in pais**; **notice in pais**.



**in paper.** The state of the proceedings in a case, in reference to a memorandum or record thereof, before the complete record is extended. 3 Bl Comm 406.

**in pari cause.** In a similar or like case; under similar or like conditions.

**In pari cause possessor potior haberi debet.** Under like conditions, the party who is in possession ought to be deemed the stronger.

**In pari cause potior est conditio possidentis.** Under similar conditions, the situation of the party who is in possession is the stronger.

**in pari delicto.** In equal wrong equally at fault. 27 Am J2d Eq § 72. The status of both parties to an illegal agreement or transaction where they are equally at fault. 1 Am J2d Acctg § 56; 17 Am J2d Contr § 221.

It is a trite and commonplace maxim that where parties are equally in wrong, the court will not give one legal redress against the other but will leave them where it finds them. Anno: 116 ALR 1018. So, where the parties are equally at fault the defendant and the party in possession hold the strong position. 17 Am J2d Contr § 221.

**In pari delicto melior est conditio defendentis.** Where the parties are equally at fault, the situation of the defendant is the more favorable.

If a person suffers injury while violating a public law, the other party being also a transgressor, he cannot recover for the injury, if his unlawful act was the cause of the injury. *Gilmore v Fuller*, 198 Ill 130, 65 NE 84.

**In pari delicto melior est conditio possidentis.** Where the parties are equally at fault, the situation of the party in possession is the preferable one. *Fawcett v Supreme Sitting of Order of Iron Hall*, 64 Conn 170, 29 A 614.

**In pari delicto potior est conditio defendentis.** Where the parties are equally at fault, the defendant holds the stronger position.

The general rule of the maxim applies not only to the original parties to an illegal, immoral or fraudulent transaction, but to their heirs, and to all parties claiming under them or by title derived from them, where no equitable rights intervene to protect

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such parties. *Dennehy v McNulta* (CA7 Ill) 86 F 825.

**In pari delicto, potior est conditio defendentis et possidentis.** Where the parties are equally at fault, the defendant and the party in possession hold the stronger position.

**In pari delicto potior est conditio possidentis.** Where the parties are equally at fault, the situation of the party in possession is the stronger one. *Morrison v Bennett*, 20 Mont 560, 52 P 553.

**in pari jure.** In equal right. 27 Am J2d Eq § 148.

**in pari materia.** In relation to the same matter, subject, or object. *Winston v State*, 186 Ga 573, 198 SE 667, 118 ALR 719.

Statutes which relate to the same thing or to the same subject or object are in pari materia, although they were enacted at different times and it is a fundamental rule of statutory construction that such statutes should be construed together for the purpose of learning and giving effect to the legislative intention. 1 Am J2d Admin L § 40; 50 Am J1st Stat § 348.

**in pari passu.** On equal footing.

**in part.** Less than the whole, as a stock of goods consisting "in part" of inflammables.

**in part of.** A characteristic description of an article for the purpose of customs duties, meaning that the article contains a significant quantity of the named material. 19 USC, Headnote 9(f).

**it patiendo.** In suffering; in allowing; in permitting.

**in paying quantities.** A clause familiar in oil and gas leases. A yield of oil or gas in excess of operating costs. *Barnard v Gibson*, 100 Cal App 2d 527, 224 P2d 90. Characterizing the production of a gas well in excess of the producing and marketing cost. *Benedum-Trees Oil Co. v Davis* (CA6 Tenn) 107 F2d 981; *Barbour, Stedman & Herod v Tompkins*, 81. W Va 116, 93 SE 1038.

Under the usual habendum clause, which fixes the duration of the lease at a designated number of years and so long thereafter as gas or oil shall be produced in "paying quantities," the right to an extension accrues only in the event of attainment of profitable production within the fixed term. Anno: 67 ALR 526.

**in payment.** See **in full; in full settlement; note in payment of an account.**

**in pectore judicis.** In the breast of the court.

**in pejorem partem.** In the worse part; on the worse side.

**in pendente.** In suspense.

See **pendente lite.**

**inpeny.** The customary payment which a tenant made to his landlord upon entering upon his tenancy.

**in performance of duty.** See **in the course of the employment.**

**in perpetuum.** In perpetuity; forever.

Where land was conveyed in fee, and, as a part of the consideration, the grantor imposed a condition as to maintaining fences which was to be "perpetually" binding on the owners of the land, it was held that the condition did not impose an obligation on the grantee in perpetuum, but only upon the owners of the land, whoever they might be. *Hickey v Lake Shore & Michigan Southern Railway Co.* 51 Ohio St 40, 36 NE 672.

See **perpetual.**

**in perpetuum rei memoriam.** For the perpetuation of the memory of the matter. The characterization of a deposition taken in advance of trial, for use in the event the attendance of the witness at the trial cannot be secured. *Richter v Jerome*, 115 US 55, 29 L Ed 345, 5 S Ct 1162.

**in perpetuity.** Of endless duration. *Central R. Co. v New York Tel. Co.* 101 NJL 353, 128 A 160.

See **perpetuity.**

**in perpetuum.** In perpetuity; forever.

**in perpetuum rei testimonium.** In perpetual memory of the matter; establishing a matter forever.

**in person.** Appearing without counsel in the conduct of one's action or defense. For some purposes, in body, as where a civil damage or dramshop act provides for the recovery of damages for an injury "in person."

**in persona.** In person; appearing in an action without the aid of counsel.

**in personam.** Against the person; involving the person.

See **judgment in personam; right in personam.**

**In personam actio est, qua cum eo agimus qui obligatus est nobis ad faciendum aliquid vel dandum.** An action in personam is one in which we sue a person who is obligated to us to do something or to give something.

**in personam action.** An action having the objective of a judgment against the person, as distinguished from a judgment against property, being an action to enforce personal rights and obligations, brought against the person and based on jurisdiction of the person, notwithstanding it may involve his right to, or the exercise of ownership of, specific property, or seek to compel him to control or dispose of it in accordance with the mandate of the court. *Atlantic Seaboard Natural Gas Co. v Whitten*, 315 Pa 529, 173 A 305, 93 ALR 615. A proceeding against a person involving his personal rights and based on jurisdiction of his person. *McCormick v Blaine*, 345 111461, 178 NE 195, 77 ALR 1215.

**in personam judgment.** See **judgment in personam.**

**in personam jurisdiction.** See **jurisdiction in personam.**

**in personam, not in rem.** A maxim characterizing equity jurisdiction, indicating that remedies administered in equity are made effectual by decrees operating in personam. 27 Am J2d Eq § 122.

**in pios usus.** For religious uses or purposes. See 2 Bl Comm 505.

**in place.** Descriptive of minerals unsevered from the soil, constituting a part of the freehold. *Williams v Gibson*, 84 Ala 228.

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**in plena vita.** In full life; that is, both civilly and physically alive.

**in pleno comitatu.** In the full county court. See 3 Bl Comm 36.

**in pleno lumine.** In full light; in the daytime.

**in plurality.** See **estate in plurality.**

**In poenalibus causis benignius interpretandum est.** In penal cases, the more liberal interpretation is to be adopted.

**in poenam.** In punishment; by way of punishment or penalty.

**in posse.** In possibility; in potentiality, as opposed to "in esse."

**in possession.** Holding possession.

See **chose in possession; estate in possession; estate vested in possession.**

**in posterum.** In the future.

**in potentia.** In possibility.

**In potestate parentis.** Under the control of a parent.

**in praemissorum fidem.** In the attestation of the premises. A phrase used in technical language of a notary.

**In praeparatoriis ad iudicium favetur actori.** (Civil law.) In those matters which precede the judgment, the plaintiff is favored.

**in praesenti.** At the present time; at once; immediately effective. *Van Wyck v Knevals* (US) 16 Otto 360, 27 L Ed 201, 1 S Ct 336.

**in praesentia.** In the presence.

**in praesentia diversorum.** In the presence of divers persons.

**in praesentia et auditu aliorum.** In the presence and hearing of others. *Broderick v James* (NY) 3 Daly 481.

**In praesentia majoris potestatis, minor potestas cessat.** In the presence of the superior power, the inferior power ceases. In presence of the major the power of the minor ceases. See *Broom's Maxims* 111.

**in prender.** Characterization of incorporeal hereditaments which the landlord had the right to take. See 3 Bl Comm 15.

**in presence.** See **in the presence of the testator; presence; presence of the court.**

**In pretio emptionis et venditionis, naturaliter licet contrahentibus se circumvenire.** In respect to the price, in buying and selling, it is naturally permitted to the contracting parties to cheat one another.

**in primis.** In the first place; at first; at the outset.

**in principio.** In the beginning. In principle.

**in privity.** See **privity.**

**in promptu.** Impromptu; in readiness.

**In propria causa nemo iudex.** No one can be a judge in his own cause.

**in propria persona.** In one's own person or behalf. Appearing in an action without counsel.

**in proximo gradu.** In the next or nearest degree.

**in puris naturalibus.** In a quite natural state; naked; unclothed.

**in quantum lucratus est.** To the extent to which he has profited.

**inquest.** An investigation conducted by a coroner or medical examiner, sometimes with the aid of a jury, to determine the cause of death of a person in a case where death is due, or is supposed to be due, to violence or other unlawful means. 18 Am J2d Corn § 7.

See **post mortem inquisitio**.

**inquest in lunacy.** A hearing to determine the sanity of a person. 26 Am J1st Homi §§ 82, 83.

**inquest jury.** A jury summoned by a coroner, medical examiner, or comparable officer to determine the cause of death of a person in a case in which death is due, or is supposed to be due, to violence or other unlawful means. 18 Am J2d Corn § 12.

**inquest of drunkard.** A statutory proceeding, similar to that provided for the determination of sanity, to ascertain whether a person is incapable of conducting his own affairs in consequence of habitual drunkenness. 29 Am J Rev ed Ins Per § 11.

**inquest of office.** An inquiry made by a jury before a sheriff, coroner, escheator, or other government officer, or by commissioners specially appointed, concerning any matter that entitled the sovereign to the possession of lands or tenements, goods or chattels, by reason of an escheat, forfeiture, idiocy, and the like. Hughes v Jones, 116 NY 67, 22 NE 446. Anno: 23 ALR 1233. An inquest conducted by a sheriff to determine the title to goods levied upon by him. 47 Am J1st Sher § 153.

**inquest of title.** A trial of the title to goods levied upon by a sheriff; not a judicial proceeding or part of a judicial proceeding—merely an inquest of office to indemnify the sheriff in making his return to the writ. 47 Am J1st Sher § 153.

**inquilinus.** (Roman law.) A person who dwells in a place not his own; a tenant; a lodger.

**in quindena.** In fifteen days.

**inquirendo.** An authorization to institute an inquiry on behalf of the government.

**inquiry.** A seeking for information. An examination or investigation.

See **court of inquiry; diligent inquiry; judicial inquiry; writ of inquiry**.

**inquisitio.** An inquisition; an inquest; an investigation; an inquiry.

**inquisition.** A church tribunal for the discovery and suppression of heresy. In law, an inquest.

See **inquest; inquest in lunacy; inquest of office; inquest of title**.

**inquisitio post mortem.** An inquisition or inquest after death.

See **post mortem**.

**inquisitor.** An official investigator.

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**inquisitorial power.** Investigating authority. 24 Am J1st Grand J § 33. The power of an administrative agency to inspect accounts, records, etc. or to require the disclosure of information through the testimony of witnesses or the production of documents. 1 Am J2d Admin L § 85.

**in quo.** In what; in which.

See **locus in quo**.

**In quo quis delinquit, in eo de jure est puniendus.** In that wherein a person has committed an offense, he is to be punished by the law.

**in re.** In the matter; in the transaction.

**in re aliena.** In the affair or business of another; in the property of another.

**in rebus.** In matters; in transactions.

**In rebus manifestis, errat qui auctoritates legum allegat; quia perspicua vera non sunt probanda.** He errs who cites authority of law in respect to things which are manifest, because plain truths do not have to be proved.

**In rebus quae sunt favorabilia animae, quamvis sunt damnosa rebus, fiat aliquando extensio statuti.** In matters where the intent is good, although there is damage to property, there should be given some elasticity to the statute.

**In re communi neminem dominorum jure facere quicquam, invito altero, posse.** No one of the owners of common property may exercise any dominion over it against the will of another of them.

**In re communi potior est conditio prohibentis.** In relation to property held in common, the position of the one who holds back (the conservative partner) is the more favorable.

**In re dubia, benigniorem interpretationem sequi, non minus justius est quam tutius.** In a doubtful matter, to follow a more liberal construction is no less the more just than it is the more safe.

**In re dubia magis infitatio quam affirmatio intelligenda.** In a doubtful matter, the negative rather than the affirmative is to be understood.

**In re lupanari, testes lupanares admittentur.** In a matter involving a brothel, the inmates are admitted as witnesses. *Van Epps v Van Epps* (NY) 6 Barb 320, 324.

**in rem.** Against a thing and not against a person; concerning the condition or status of a thing. *Re Will of W. F. Storey*, 20 Ill App 183, 190.

**In rem actio est per quam rem nostram quae ab alio possidetur petimus, et semper adversus eum est qui rem possidet.** An action in rem is one by means of which we seek our property in the hands of another, and is always against him who holds possession of the property.

**in rem action.** In the more strict sense of the term, a proceeding to determine the right in specific property, against all the world, equally binding on everyone, but taking no cognizance of the owner or person with a beneficial interest, being against the thing or property itself directly, and having for its object the disposition of the property without reference to the title of individual claimants. 1 Am J2d Actions § 40. Most clearly illustrated by the proceeding against a vessel in a court of admiralty. 2 Am J2d Adm §§ 93, 94. Inclusive in the broad sense of actions quasi in rem.

See **quasi in rem action.**

**in remainder.** See **estate in remainder; remainder.**

**in rem judgment.** See **judgment in rem.**

**in rem jurisdiction.** See **jurisdiction in rem.**

**in rem proceeding.** See **in rem action.**

**in rem process.** See **process in rem.**

**in rem suam.** In his own business; in his own affair.

**in rem versum.** Used in one's business; used to one's advantage.

**in render.** Characterization of incorporeal hereditaments which the tenant was required to render to the landlord. See 3 Bl Comm 15.

**In re pari potiore causam esse prohibentis constat.** In a matter of equal rights the cause of the party who is seeking to prohibit is deemed the stronger. *Griswold v Waddington* (NY) 16 Johns 438, 491.

**in re propria.** In one's own business; in one's own affair.

**In re propria iniquum admodum est alicui licentiam tribuere sententiae.** It is most unfair for anyone to assign to himself the privilege of deciding his own case.

**In republica maxime conservanda sunt jura belli.** It is of the highest importance that the laws of war be observed in the state. *Tyler v Pomeroy*, 90 Mass (8 Allen) 480, 484.

**in rerum natura.** In the nature of things.

**In restitutionem, non in poenam haeres succedit.** An heir succeeds to a restitution, but not to a penalty.

**In restitutionibus benignissima interpretatio facienda est.** In restitutions, the most liberal construction is adopted.

**in reversion.** See estate in reversion; reversion.

**in rixa.** In a quarrel.

**inroll.** Same as enroll.

**inrollment.** Same as enrollment.

**insane.** Of unsound mind; afflicted with insanity.  
See **insanity.**

**insane delusion.** The product of a diseased mind or brain. 26 Am J1st Homi § 81. A belief which cannot be dispelled by reason and can be accounted for only as the product of mental disorder. A belief in things which do not exist and which no rational

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mind would believe to exist. 57 Am J1st Wills § 80. A belief in something impossible in the nature of things or under the special circumstances; a belief in a state or condition of things which no rational person would believe and which refuses to yield either to evidence or reason. *Jackman v North*, 398 11190, 75 NE2d 324, 175 ALR 868. Such an aberration as indicates an unsound and deranged condition of the mental faculties. *Brown v Ward*, 53 Md 376. Insanity, in effect, as to an act, such as to render one incapable of entertaining criminal intent. 26 Am J1st Homi § 81.

**insane person.** A person afflicted with insanity.

The term is a generic one and includes idiots, lunatics, persons who are non compos mentis, and persons who are deranged. *Hiatt v Shull*, 36 W Va 563, 565.

See **insanity**.

**insanity.** An unsound, deranged, delirious, or distracted condition of mind. *Manley v Staples*, 62 Vt 153, 19 A 983. A condition of mind so impaired in function, or so deranged, as to induce a deviation from normal conduct in the person so afflicted. 29 Am J Rev ed Ins Per § 2. Such a degree of mental incapacity as renders one unable to understand and deal with the common affairs of life. *Lewis v Lewis*, 199 SC 490, 20 SE2d 107. Such impairment of the mind as renders it impossible for one to understand the nature and consequences of his acts, or the character of a transaction in question. 29 Am J Rev ed Ins Per § 2. A sickness. *Robillard v Societe St. Jean Baptiste De Centreville*, 21 RI 348, 43 A 635. A physical disease, consisting of a diseased or disordered condition or malformation of the organs or tissues, through which the mind receives impressions, and operates, and by which the will and judgment are impaired, and conduct rendered irrational. *Blackstone v Standard Life & Acci. Ins. Co.* 74 Mich 592, 42 NW 156.

Defense in criminal case. Incapacity to form a guilty intention. *People v Schmidt*, 216 NY 324, 110 NE 945. Mental disease or mental defect producing the unlawful act. 21 Am J2d Crim L § 39. Such a condition of mind and want of reason as to act from irresistible impulse. 21 Am J2d Crim L § 36. Want of substantial capacity, as a result of mental disease or defect, to appreciate the criminality or wrongfulness of conduct or to conform conduct to the requirements of law. American Law Institute Model Penal Code, proposed official draft § 4.01(1). Such defect of reason, from disease of the mind, as not to know the nature and quality of the act, or if the accused did know it, that he did not know that what he was doing was wrong; such being the definition of the celebrated M'Naghten Case, 10 Clark & F 200, 8 Eng Reprint 718. Sometimes tested, in homicide cases, according to the ability to distinguish between right and wrong. 26 Am J1st Homi §§ 78, 79. Inability to understand the nature and quality of the act or inability to distinguish right from wrong in respect to the act. 21 Am J2d Crim L § 34.

At time of trial for crime. The want of capacity to comprehend one's position, to understand the nature and object of the proceedings, to conduct his defense in a rational manner, and to co-operate with his counsel to the end that any available defense may be interposed. *People v Burson*, 11 Ill 2d 360, 143 NE2d 939.

At the time punishment for crime to be imposed, particularly the execution of the death penalty. The want of sufficient intelligence to understand the nature of the proceedings, what the trial was for, the purpose of punishment, the impending fate, or of sufficient understanding to know any fact which might exist making punishment unjust or unlawful, or of intelligence requisite to convey such information to attorneys or the court. 21 Am J2d Crim L § 76.

As a condition which operates to prevent or suspend the running of a statute of limitations. Such a mental impairment as renders one incompetent to manage his own affairs and endangers his person or property. *Brown v Smith*, 119 Colo 469, 205 P2d 239, 9 ALR2d 961.

As a matter of avoidance of the effect of an exception in a life insurance policy of death by suicide. An impairment of the reasoning faculties so far that one is not able to understand the moral character, the general nature, the consequences and effect of an act he is about to commit, or is impelled to the act by an impulse which he is not able to resist. 29A Am J Reved Ins § 1144.

See **idiocy; imbecility; inquest in lunacy; non compos mentis; right and wrong test; total mental disability; wild beast test.**

**Insanus est qui, abjecta ratione, omnia cum impetu et furore facit.** A person is insane who, deprived of reason, does everything in violence and fury.

**In satisfactionibus non permittitur amplius fieri quam semel factum est.** In settlements more should not be paid than was paid once for all.

**in scaccario.** In the exchequer.



**inscribe.** To mark or engrave words, letters, or signs in such manner and upon such substance that they will have some degree, at least, of permanency.

**inscribere.** To inscribe; to write in or on; to charge with the commission of a crime.

**in scrinio judicis.** Among the notes or papers of the judge; that is, not contained in the record.

**inscriptio.** (Civil law.) A written accusation of crime; the consent of an accuser to suffer the penalty prescribed for the offense with which he charges the accused, in the event of the acquittal of the accused.

**inscription.** Words, letters, or signs marked or engraved upon stone, metal, or other enduring substance so that they will stand in some degree of permanency, at least. Another term for the registration or recording of a deed, mortgage, or other instrument entitled to be inscribed or recorded in the public records. *Bondurant v Watson* (US) 13 Otto 281, 26 L Ed 447.

See **reinscription.**

**in se.** In itself; in themselves.

See **mala in se.**

**insecticide.** A substance sprayed or dusted upon the soil or vegetation to kill or prevent the propagation of insect pests. 1 Am J2d Adj L § 35.

**insect infestation.** The overrunning of plants and growing things, particularly crops, by insect pests. A risk of loss under crop insurance pursuant to the Federal Crop Insurance Act. 21 Am J2d Crops § 6.

**insecure clause.** Same as **insecurity clause.**

**insecurity clause.** A provision in a chattel mortgage which gives the mortgagee a right to take posses-

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sion of the mortgaged chattels whenever he deems himself insecure. 15 Am J2d Chat Mtg § 202. A clause in an instrument for the payment of money which authorizes acceleration of maturity if and when the holder deems his claim insecure. 11 Am J2d B & N § 185.

**insensible.** Unconscious; unintelligible; meaningless.

**in sensu et re ipsa.** In the meaning or intention and regarding the very thing itself. *Culpeper Agricultural & Mfg. Soc. v Digges*, 27 Va (6 Rand) 165.

**inseparable error.** An error by the trial court affecting all coparties of such nature that a reversal must apply to all such parties notwithstanding less than all of them appealed. 5 Am J2d A & E §§ 951, 952.

**in separali.** In severalty.

**insert.** Verb: To add a line or lines between lines or even a page between pages. Noun: A line or lines or even a page added to a writing.

See **write-in candidates.**

**in session.** A court engaged in the administration of justice and the business of the court, with the judge on the bench and discharging his official function. The status of a court between the time that it has convened for the term and the time that it adjourns sine die. *State v Root*, 5 ND 487, 67 NW 590.

**in severalty.** The character of a holding of land by one person in his own right only, without any other person being joined or connected with him in point of interest during the continuance of his estate in the land. *State ex rel. Anderton v Somers*, 242 Wis 484, 8 NW2d 263, 145 ALR 1324.

**inside a motor vehicle.** Inside the vehicle in the place ordinarily occupied by one driving or riding. Anno: 39 ALR2d 961 (construing phrase as it appears in an accident insurance policy or the accident feature of a life insurance policy).

**inside information.** The information acquired by a director or officer of a corporation by reason of his position. 19 Am J2d Corp § 1326.

**inside lane.** The lane nearest the center line of the highway on a highway containing more than one lane of traffic proceeding in the same direction. *Richards v Warner Co.* 311 Pa 50, 166 A 496, 87 ALR 1159.

**insiders.** Officers and directors of a corporation who acquire knowledge of the business and condition of the corporation by their official position. 19 Am J2d Corp § 1326.

**insider short-swing transaction.** A term of the Securities Exchange Act, typifying a transaction in the stock of a corporation by a director, officer, or principal stockholder, buying and selling on the basis of information obtained by him through his position in the company. Anno: 40 ALR2d 1349.

**insidiatio viarum.** Lying in wait for one on the highway,—a common-law felony for which benefit of clergy was not allowed, because it was said to be one of those offenses which bordered on treason. See 4 Bl Comm 373.

**insidiator.** A spy; a waylayer; a traitor; a lurker.

**insidiatores viarum.** Highwaymen; highway robbers; persons lurking in the highways to commit crime.

**insidious machination.** A deceitful scheme or plot with evil design, or, in other words, with a fraudulent purpose. *Strong v Repide*, 213 US 419, 53 L Ed 853, 29 S Ct 521.

**insignia.** Coats of arms; armorial bearings; emblems of rank. Pins, badges or ribbons worn by members of a club. 6 Am 12d Asso & C § 17.

In the days of chivalry and knight errantry, and at the present time, where distinctions are recognized by law, between wealth and other adventitious influences, and poverty or weakness, the adventurous and the great have adopted their insignia, suggested by valorous achievement, or other causes. These are called their arms or family escutcheon, and are usually engraved on their seals. *Kirksey v Bates (Ala)* 7 Port 529.

As the term is used with reference to notarial seals, it means the armorial ensign of a state or political community, intended to distinguish it from others, and which is usually transferred to its national flag or banner. Yet, perhaps a public flag cannot always be considered as a true indication of the arms of the country to which it belongs; for most countries have two banners—one borne by vessels of war, and the other by those engaged in commerce. *Kirksey v Bates (Ala)* 7 Port 529.

**insilium.** Rash advice; bad counsel.

**in simile materia.** In a like or similar matter.

**in simplici peregrinatione.** In simple pilgrimage.

**insimul.** At the same time; together; jointly.

**insimul computassent.** Literally, they accounted together. A common count in assumpsit pleaded in an action upon an account. 1 Am J2d Acctg § 37.

**insinuacion.** (Spanish.) The submission of a public document to a judge for his approval.

**insinuare.** To deposit in the records of the court; to declare or acknowledge before a judge.

**insinuatio.** Suggestion; information.

**insinuation.** A suggestion of something, particularly bad or criminal conduct. 33 Am J1st L & S § 9. (Civil law.) Copying anything into a public record.

**insinuatione.** Insinuation.

See **ex insinuatione.**

**insinuation of a will.** (Civil law.) The production of a will of a decedent for probate.

**in situ.** As located; in its place.

**insolence.** The conduct of one who is insolent.

See **insolent.**

**insolent.** Rude; insulting; abusive; offensive. State v Bill, 35 NC (13 Ired L) 373, 377.

**in solido.** In a lump; in a lump sum; in one payment; as a whole; for the whole sum.

As used in the Louisiana code, the term appears to have the meaning of jointly and severally, so that debtors bound "in solido" must be all obliged to do the same thing, so that each may be compelled for the whole. Henderson v Wadsworth, 115 US 264, 29 L Ed 377, 6 S Ct 40.

See creditors in solido; debtors in solido.

**in solidum.** As a whole; for the whole.

**in solo.** In the soil; on the land; on the ground. By one's self alone.

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**in solo proprio.** On one's own land.

**in solutum.** In payment.

**insolvency.** The insufficiency of the entire property and assets of an individual to pay his debts. 29 Am J Rev ed Insolv § 2. In a practical commercial sense, the inability of a person to pay his debts as they become due in the ordinary course of his business, such being the sense of the term as applied to traders and merchants, permitting a determination of insolvency, although the debts of the person actually may be paid at some future time on a settlement and winding up of his affairs (29 Am J

Rev ed Insolv § 2) but apparently giving to a debtor the advantage of the use of his credit to raise money for the payment of his debts. *United States v Anderson Co.* (CA7 Ind) 119 F2d 343.

By definition in the Bankruptcy Act, controlling for the purpose of determining the commission of an act of bankruptcy:-the status of a person whenever the aggregate of his property exclusive of any property which he may have conveyed, transferred, concealed, removed, or permitted to be concealed or removed, with intent to defraud, hinder, or delay his creditors, shall not at the fair valuation be sufficient in amount to pay his debts. Bankr Act § 1(19); 11 USC § 1(19); 9 Am J2d Bankr § 160. For the purpose of determining whether a transfer is fraudulent under the Bankruptcy Act:-the status of a person when the present fair salable value of his property is less than the amount required to pay his debts. Bankruptcy Act § 67 (d) (1) (d); 11 USC § 107 (d) (1) (d). (This definition is controlling as against the preceding definition, also from the Bankruptcy Act, inasmuch as Congress intended less stringent requirement in proof of insolvency in fraudulent transfer cases than in other phases of bankruptcy. *Holohan v Lewis* (DC Fla) 182 F Supp 473.)

In reference to the qualification of a person to administer the estate of a decedent, not the mere not owning of property, but the owing of debts in excess of the value of property. 31 Am J2d Ex & Ad § 68.

A debtor is "insolvent" within the meaning of a statute giving priority to debts due the United States from an insolvent debtor, if, not having sufficient property to pay all his debts, he either makes a voluntary assignment of his property for the benefit of his creditors or commits an act of bankruptcy. *United States v Gotwals* (CA10 Okla) 156 F2d 692, 169 ALR 619. No lien is created by the statute; the priority established can never attach while the debtor continues the owner and in the possession of the property, although he may be unable to pay all his debts; no evidence can be received of the insolvency of the debtor until he has been divested of his property in one of the modes stated in the statute. 29 Am J Rev ed Insolv § 68.

See **acts of insolvency; assignee in insolvency; hopelessly insolvent; open insolvency.**

**insolvency laws.** See **insolvency statutes.**

**insolvency of bank.** An expression of dual meaning: -(1) the insufficiency of assets to pay liabilities within a reasonable time; (2) an insufficiency of assets to pay liabilities as they become due in the ordinary course of business. Anno: 85 ALR 812.

See **hopelessly insolvent; receiving deposits while insolvent.**

**insolvency of building and loan association.** Inability to satisfy the demands of members. Anno: 98 ALR 111; 13 Am J2d B & L Assoc § 101. Inability to pay back to members the amount of their contributions dollar for dollar. *Rummens v Home Sav. & L. Asso.* 182 Wash 539, 47 P2d 845, 100 ALR 570.

**insolvency of corporation.** An insufficiency of assets to pay debts. In a more commercial sense, an inability to pay debts as they become due in the ordinary course of business. 19 Am J2d Corp § 1569.

See **also insolvency.**

**insolvency of insurance company.** A depletion of assets to the extent that they are insufficient for the payment of the just debts and obligations of the company. 29 Am J Rev ed Ins § 116.

An insurance company is not insolvent when the value of its property is greater than the amount of its liabilities and it is able to pay its debts when they mature, although the excess of the value of its property above its liabilities may be less than the par value of its stock. *Shearer v Farmers' L. Ins. Co.* (CA8 Mo) 262 F 861.

Actuarial solvency of a mutual benefit company requires that the funds of the company on hand and the present value of future payments to be made by the members shall be equal to the accrued obligations and the present value of the insurance in force. *Jenkins v Talbot*, 338 Ill 441, 170 NE 735, 80 ALR 638, app dismd 283 US 782, 75 L Ed 1412, 51 S Ct 342.

**insolvency of lessee.** In reference to re-entry by the lessor:-the failure of a lessee to meet obligations as they mature, or such financial condition as throws the lessee's relations into confusion, delays payment of the rent, impounds his property for an indefinite time, and in general makes it important for the lessor to be free to re-enter. *Re Wil-Low Cafeterias Inc.* (CA2 NY) 95 F2d 306, 115 ALR 1184, cert den 304 US 567, 82 L Ed 1533, 58 S Ct 950.

**insolvency of partnership.** Insufficiency of the aggregate joint property to pay the firm liabilities, without reference to the solvency or insolvency of the individual partners. 40 Am J1st Partn § 256.

In determining insolvency of a partnership for the purposes of ascertaining whether a transfer is fraudulent under the Bankruptcy Act, there shall be added to the partnership property the present fair salable value of the separate property of each general partner in excess of the amount required to pay his separate debts, and also the amount realizable on any unpaid subscription to the partnership of each limited partner. Bankr Act § 67 (d) (1) (d); 11 USC § 107 (d) (1) (d).

**insolvency of savings and loan association.** See **insolvency of building and loan association.**

**insolvency proceedings.** See **proceedings in insolvency.**

**insolvency statutes.** State statutes, comparable to the National Bankruptcy Act, which provide a proceeding by or against a debtor to have him declared insolvent and his property brought into court for disposition among his creditors in accordance with law. Vanuxem v Hazelhursts, 4 NJL 192.

**insolvent.** Characterizing a person who either has ceased to pay his debts in the ordinary course of business, cannot pay his debts as they become due, or is insolvent within the meaning of the Federal Bankruptcy Act. UCC § 1-201(24). One in a condition of insolvency.

See **insolvency.**

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**insolvent bank.** See **insolvency of bank.**

**insolvent building and loan association.** See **insolvency of building and loan association.**

**insolvent corporation.** See **insolvency of corporation.**

**insolvent estate.** The estate of a decedent which is to be administered according to a special statutory method because of the fact of insolvency. 31 Am J2d Ex & Ad § 312.

**insolvent law.** See **insolvency statutes.**

**insolvent partnership.** See **insolvency of partnership.**

**insomnia.** Inability to sleep; prolonged sleeplessness. United States v Ridgeway (CC Ga) 31 F 144, 147.

**in spe.** In hope; in expectation.

**in specie.** Payment in the designated number of gold or silver dollars of the coinage of the United States; in gold or silver coin of the United States. 40 Am J1st Paym § 58.

**inspect.** To look upon; to examine for the purpose of determining quality, detecting what is wrong, and the like; to view narrowly and critically; as to inspect conduct. Fairchild v Ada County, 6 Idaho 340, 55 P 654.

**inspector.** An adversary.

**inspected and condemned.** See **US brand.**

**inspection.** The act of inspecting, whether it be articles offered for sale, real estate, or the conduct of a person. The right by which, as a general rule, the buyer of goods is entitled to a fair opportunity to inspect or examine the article or commodity tendered by the seller to see if it conforms to the contract, and if it does not do so, to reject it. 46 Am J1st Sales § 247. Under an inspection law:—an examination to determine whether the article inspected is fit for use or commerce; something which can be accomplished by looking at or by weighing or measuring the thing to be inspected or applying to it some crucial test, without resort to other evidence. 29 Am J Rev ed Insp L § 2.

"Inspection" of the home by a health officer is a "search" thereof within the meaning of the Fourth Amendment to the Constitution of the United States prohibiting unreasonable searches. *District of Columbia v Little*, 85 App DC 242, 178 F2d 13, 13 ALR2d 954.

See **inspect; physical examination; right of visitation; trial by inspection.**

**inspection by customs.** An examination by customs officers of goods, merchandise, and baggage brought into the United States from a foreign country. 21 Am J2d Cust D §§ 73, 74.

**inspection charges.** Duties laid by the states on goods imported to, and exported from them, under the authority of section ten, article one, of the United States Constitution, for services rendered in executing their inspection laws. *Turner v Maryland (US)* 17 Otto 38, 27 L Ed 370, 2 S Ct 44. An exception to the prohibition on the states to lay duties on imports or exports. *Brown v Maryland (US)* 12 Wheat 419, 6 L Ed 678.

**Inspection Division.** An agency established within the Atomic Energy Commission for gathering information as to whether or not contractors, licensees, officers, and employees of the commission are complying with the statutes and the rules and regulations of the commission. 42 USC § 2035.

**inspection duties.** Same as **inspection charges.**

**inspection laws.** Police regulations, designed to safeguard the public against fraud, imposition, or injury and to promote the public health, safety, and welfare, by providing for the examination or inspection of property by an authorized public official in order to determine whether prescribed standards are met by compliance therewith. Anno: 51 L Ed 78, s. 63 L Ed 180, 83 L Ed 776. Characterized by concern with the quality of the article, the form, capacity, dimensions, and weight of a package, the manner of putting up, and the markings and brandings of various kinds, all these matters being supervised by a public officer having authority to pass or not to pass the article as lawful merchandise, according to the prescribed requirements. *Turner v Maryland*, 107 US 38, 27 L Ed 370, 2 S Ct 44.

**inspection of corporate records.** See **inspection of records.**

**inspection of documents.** The preliminary examination of documents by the party who is opposing the party who offers the documents in evidence.

**inspection officer.** See **inspector.**

**inspection of records.** A right which entails access to, free examination of, and the taking of copies from, public records. 1 Am J2d Abstr T § 8; 45 Am J1st Recds §§ 14 et seq. The right of a stockholder to examine the books of the corporation by virtue of the fact of ownership of stock. 18 Am J2d Corp §§ 178 et seq.

See **interested person.**

**inspection of vessels.** Inspection under federal statutes for the purpose of ascertaining whether there has been compliance with requirements respecting construction and equipment. 48 Am J1st Ship § 58.

**inspector.** A common term for a person of rank in a detective or police force. Often a public officer, for example, a building inspector, customs inspector, grain inspector, or health inspector. 42 Am J1st Pub Of § 16. A public officer, quasi-public officer, or merely a public employee, engaged in the administration of inspection laws, particularly by conducting inspections in accord with such laws. 29 Am J Rev ed Insp L § 7.

**inspectors of election.** The persons conducting an election of directors of a corporation at a corporate meeting. 19 Am J2d Corp § 629. The title of officers of election who administer election laws in the conduct of the voting in precincts and districts.

**Inst.** See **Institutes of Coke.**

**install.** To induct or place in office. To place a pastor elect formally in the pastoral relation to the congregation. 45 Am J1st Reli Soc § 29. To place and establish a machine or other instrumentality in position and use, as to "install" a furnace.

Unless modified by other terms, a contract to "install" certain equipment, binds the promisor, not only to set up and connect the parts, but also to furnish suitable and adequate material. *Bernstein v Alcorn*, 194 Iowa 1109, 190 NW 975.

**installation.** The act of installing.

See **install.**

**installation services.** The assembling and setting up of machinery, household appliances, and other apparatus as an incident of the sale of such things. 15 Am J2d Coin § 43. More broadly, any act of installing.

See **install.**

**instalment.** One of successive parts of a performance, such as delivery of goods or the payment of money.

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**instalment contract.** A contract the consideration in which is expressed in separate and distinct items. A contract calling for payment or performance in instalments; not necessarily a divisible contract. 17 Am J2d Contr § 328. A contract for the purchase of real estate which provides for payment of the purchase price to be made in instalments, and for the conveyance of the title to be made on the completion of the payments. 55 Am J1st V & P § 106.

A provision in a contract for payment in instalments, which instalments are not referable to severable items or portions of the performance but are referable to the performance of the whole, does not render or characterize such contract as severable. *Condon v H. C. Hazen Contracting Co.* 122 Ohio St 100, 170 NE 870.

**instalment judgment.** A judgment for a sum to be paid in instalments; a judgment calling for instalment payments, such as a judgment for the payment of alimony at stated periods. *United States v Ewing* (DC Miss) 19 F2d 378.

**instalment legacy.** A bequest of a certain amount payable in stated instalments at definite periods in the future. A legacy in the form of an annuity created by the will. 4 Am J2d Annui § 4.

**instalment note.** A promissory note the principal of which is payable in two or more certain amounts at different stated times.

**instalment payments.** Partial payments on account of a larger sum. Payments at fixed intervals until the entire principal and interest on an obligation is satisfied, according to a provision contained in a contract, note, conditional sale contract, chattel mortgage, or trust receipt. Partial payments to be made to a building contractor as the work progresses. Anno: 22 ALR2d 1343.

**instalment sale.** A sale of personal property in which the purchase price is payable in instalments. 47 Am J1st Sales § 830. Usually, although not necessarily, a conditional sale in reference to the security provided by the contract for the payment of the purchase price. 47 Am J1st Sales § 830.

See **conditional sale.**

**instalments of insurance.** Payments of a stated amount at recurring intervals, such as disability benefits payable under a policy of life or accident insurance. 29A Am J Rev ed Ins § 1508. Fixed instalments of the proceeds of a life insurance policy paid at regular intervals; not constituting an annuity, unless the person entitled to the proceeds has himself made a contract with the insurer, separate and distinct from the insurance policy, for the payment of the proceeds in instalments, can properly be regarded as an annuity. Commonwealth v Beisel, 338 Pa 519, 13 A2d 419, 128 ALR 978.

**instance.** A request; a precedent; instigation; solicitation. An occasion.

**instance court.** One of the two branches of the admiralty court; the branch which exercises jurisdiction in reference to maritime contracts and maritime torts. Percival v Hickey (NY) 18 Johns 257. The other branch is the prize court.

**instancia.** (Spanish.) The filing of an action and the prosecution of it to judgment.

**Instans est finis unius temporis et principium alterius.** An instant is the end or termination of one time and the beginning of another.

**instantaneous.** Done or occurring in an instant, or without any perceptible duration of time; as the passage of electricity appears to be instantaneous. Not synonymous with "immediate." Sawyers v Perry, 88 Me 42, 48.

**instantaneous death.** A death occurring in an instant or without any appreciable duration of time after an injury or seizure. 22 Am J2d Dth § 26.

Although the possibility of a death that is truly simultaneous with the injury that caused it has been denied, it has been pointed out that death may be so contemporaneous with the fatal injury as to be instantaneous in the sense that there can be no recovery for the victim's pain and suffering. Moffett v Baltimore & O. R. Co. (CA4 W Va) 220 F 39.

**instantaneous seisin.** The doctrine that a transitory seisin for an instant, when the same act which conveys an estate to a person conveys it away from him, is not a seisin to "abide" in him, that is, to be in him "beneficially for his own use," which will permit such a right as dower, homestead, mechanic's lien or vendor's lien, to attach to the land. Lassen v Vance, 8 Cal 271; Libbey v Tidden, 192 Mass 175, 183.

**instante.** See **eo instante.**

**instanter.** Instantly; on the instant; at once; immediately.

**instantly.** Without delay; immediately. Not the equivalent of "then and there" in an indictment. Lester v State, 9 Mo 666, 667.

**instar.** An image; a likeness; like; equal.

**instar dentium.** Like teeth; indented, as in an indenture. See 2 Bl Comm 295.

**instar omnium.** Equal to all.



**in statu quo.** In the situation in which he was. As that situation which is preserved by restraining order or preliminary injunction:—the last actual, peaceable, noncontested status preceding the pending controversy, as distinguished from a status effected by a wrongdoer before institution of the suit. *Steggles v National Discount Corp.* 326 Mich 44, 39 NW2d 237, 15 ALR2d 208; *State ex rel. Pay Less Drug Stores v Sutton*, 2 Wash 2d 523, 98 P2d 680.

Within the meaning of the rule which requires that a party to an executory contract, who for proper cause would rescind the contract, must as a condition precedent to such rescission place the other party to the contract "in statu quo, the expression means that he shall place him "in the same position" in which he was at the time of the inception of the contract which is sought to be rescinded. *Daly v Bernstein*, 6 NM 380, 28 P 764.

**in statu quo ante helium.** In the state in which it was before the war.

**in statu quo ante fait.** In the state in which it was before.

**instaurum.** Farming equipment.

**instigate.** To stimulate or goad to an action, especially a bad act. *State v Fraker*, 148 Mo 143, 165. To incite, to foment, especially the commission of a crime. 36 Am J2d Forf & P § 69; 32 Am J1st Larc § 27.

See **entrapment**.

**instigation.** The act of instigating.

See **instigate**.

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**instinct of self-preservation.** See **self-preservation**.

**instinctive statements.** See **res gestae**.

**In stipulationibus cum quaeritur quid actum sit verba contra stipulatorem interpretanda sunt.** In agreements, when it is questioned as to what was done, the words are to be construed against the stipulator.

**In stipulationibus, id tempus spectatur quo contrahimus.** In agreements, the time at which we contract is regarded.

**In stipulationibus quum queritur quid actum sit verba contra stipulatorem interpretanda sunt.** In agreements, when it is questioned as to what was done, the words are to be construed against the stipulator.

**instirpare.** To establish.

**in stirpes.** According to the roots.

See **taking per stirpes**.

**institor.** (Civil law.) A factor; a broker; an agent; a huckster; a peddler.

**institorial action.** (Civil law.) An action against a principal on a contract made for him by his "institor" or agent. See *Mackeldey's Roman L* § 513.

**institorial power.** The power or authority of an agent.

**institute.** Verb: To start; to establish. Noun: An educational institution, especially a school or college providing training for particular work. An established principle of law. A treatise on law. A person appointed by will and by the will directed to transfer property by the will devised to him, to a person called the "substitute."

See **institution; teachers' institute.**

**institute an action.** To begin an action.

The word differs from the word "maintain." An action must be instituted before it can be maintained. *National Fertilizer Co. v Fall River Five Cents Sav. Bank*, 196 Mass 458, 82 NE 671.

**instituted.** Commenced; established.

**instituted executor.** An executor who is appointed by the testator without any condition.

**institute heir.** See **heir institute.**

**institutes.** Plural of **institute.**

**Institutes of Caius.** Same as **Institutes of Gaius.**

**Institutes of Coke.** A treatise on the common law which was written in four volumes by Sir Edward Coke.

The first volume is an extensive comment on the treatise on tenures which was compiled by Judge Littleton in the reign of Edward the Fourth, and is cited as Coke's Littleton, abbreviated "Co. Litt." or "1 Inst." The second volume is a comment on many old acts of parliament. The third is a treatise of the pleas of the crown; and the fourth is an account of the several species of courts.

The three volumes following the first are cited respectively as "2 Inst.," "3 Inst.," and "4 Inst."

**Institutes of Gaius.** An elementary treatise on the Roman law written by Gaius, a Roman jurist who preceded Justinian and whose work is said to have formed the basis for the Institutes of Justinian.

**Institutes of Justinian.** An elementary treatise on the Roman law written in the sixth century A. D.

**institutio haeredis.** (Roman law.) The appointment of an heir by will.

**institution.** The act of instituting or establishing something. Something that has been established, particularly a place where an educational or charitable enterprise is conducted. *Trustees of Kentucky Female Orphan School v Louisville*, 100 Ky 470, 36 SW 921. A school, library, hospital, or auditorium, provided by a municipal corporation. 38 Am J1st Mun Corp §§ 559 et seq.

A charitable institution for the reformation of girls and women does not become a "State institution" or a governmental agency, so as to become immune from liability for the torts of its employees, simply because the state law authorizes a magistrate to commit a girl to its custody. *Gallon v House of Good Shepherd*, 158 Mich 361, 122 NW 631.

See **institute.**

**institutional decision.** A decision made by an organization, not by an individual or agency head. 2 Am J2d Admin L § 435, 2 Davis, Admin L p 36.

**institution and prosecution of action.** The filing or service of a proper complaint, declaration, or petition, the service of process, or obtaining the waiver of process, to bring the parties into court, and judicial inquiry according to the rules and practice of the court. *Zanesville v Zanesville Tel & Tel Co.* 64 Ohio St 67, 59 NE 781.

**instituciones.** Same as **institutes**.

**institution of a clergyman.** The formal act of the bishop of the diocese of investing a clergyman or clerk with the actual possession of the temporalities of a parsonage or vicarage. The clergyman was thus "instituted" by some symbolic act of the bishop after he had been presented to the bishop by his patron. See 1 Bl Comm 389.

**institution of action.** The commencement of an action at law or in equity.

See **institution and prosecution of action**.

**institution of learning.** Broadly, an educational institution, any school. In a narrower sense of the term, as it appears in a tax exemption statute, an enterprise conducted for educational purposes which includes a grade or grades higher than are included in the public schools, not limited to incorporated or public enterprises. *Montgomery v Wyman*, 130 Ill 17, 22 NE 845.

**in stricto jure.** In strict law; in strict right.

**instruct.** To direct; to advise; to impart knowledge; to order; to give instructions.

See **instructions**.

**instructed verdict.** See **directed verdict**.

**instruction.** The imparting of knowledge. The directing of an employee or subordinate.

See **instructions to jury; sectarian instruction; shipping instruction**.

**instructions to jury.** To final charges given by the court to the jury upon the submission of the case to the jury, explaining the law of the case and pointing out the essentials to be proved on the one side or the other, the purpose being to furnish guidance to the jury in their deliberations, and to aid them in arriving at a proper verdict, so far as it is compe-

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tent for the court to assist them. 53 Am J1st Trial § 509.

As usually understood, the term does not include anything which the court might say during the progress of the trial as to the purpose for which certain evidence is admitted or as to what facts have been admitted by one side or the other; oral directions to the jury to reject evidence, made when it is given; directions during the trial to disregard improper or incompetent evidence given in the examination of the witness, or to disregard prejudicial remarks of counsel; oral directions as to the form of the verdict, or other comment and statements of the trial judge as to collateral matters made during trial. 53 Am J1st Trial § 508.

See **abstract instruction; additional instructions; advisory instruction; argumentative instruction; conditional instruction; contradictory instruction; general instruction; indorsement of instructions; peremptory instruction**.

**instructor.** A teacher, whether in a university or college, a public or private school, an art school, a dancing school, or a factory the processes of which are such that new employees must be instructed therein.

**instrument.** A negotiable instrument. Uniform Negotiable Instruments L § 2; UCC § 3-102(1)(e). A negotiable instrument or a security or any other writing evidencing a right to the payment of money, and of a type transferred in the ordinary course of business by delivery with any necessary endorsement or assignment. UCC § 9-105(1)(g). A writing or document, such as a contract deed or mortgage. *Cardenas v Miller*, 108 Cal 250, 39 P 783, 41 P 472. Compare *Nash v Rehmann Bros.* (CA8 Iowa) 53 F2d 624 (holding that the bilateral nature of a contract may preclude it from falling within the meaning of the term "instrument").

A tool; a device for performing work or accomplishing a purpose, sometimes the performance of highly skilled services, such as those of a physician, surgeon, or dentist. An inclusive term where it appears in a statute respecting the mode of

committing an offense. *Lee v State*, 66 Tex Crim 567, 148 SW 567. Inclusive of a substance, such as carbolic acid. *Lee v State*, 66 Tex Crim 567, 148 SW 567. In a very broad sense, things animate and inanimate, even witnesses presented to the court in the process of producing evidence upon a trial. *Cardenas v Miller*, 108 Cal 250, 39 P 783, 41 P 472. As used in an exemption statute:—a usable article employed as a means to effect an end. 31 Am J2d Exemp § 53.

See **implement; tool**.

**instrumenta.** Unsealed writings admitted as evidence in a trial.

**instrumentality.** An agency, a means of accomplishment.

See **dangerous instrumentality; federal instrumentality**.

**instrument flying.** Flying an aircraft, the course of which is kept by instruments, the pilot being free for the performance of other duties. 14 CFR §§ 600.1 et seq.

**instrument for the payment of money.** An instrument which acknowledges an absolute obligation to pay, not conditional or contingent; one, the execution of which being admitted, it would be incumbent on the plaintiff, in an action to enforce it, only to offer the instrument in evidence to entitle him to a recovery,—that is, an instrument that admits an existing debt. *Ancient Order of Hibernians v Sparrow*, 29 Mont 132, 74 P 197. A promissory note.

**instrument inter panes.** An instrument which records in writing a transaction between two or more persons; an instrument between the persons named therein as executing it. *Smith v Emery*, 12 NJL 53, 60.

See **deed inter panes**.

**instrument of appeal.** A petition on appeal in a divorce suit in England.

**instrument of evidence.** A document, witness or thing which may be presented in evidence for inspection. *Cardenas v Miller*, 108 Cal 250, 39 P 783, 41 P 472. In a more common sense, a document or writing presented and admitted in evidence.

**instrument of war.** An instrument subject to embargo as a military instrument. *Gibbons v Ogden (US)* 9 Wheat 1, 6 L Ed 23.

**instrumentum patrisfamilias domesticum et quotidianum.** The domestic and everyday conveniences of the family; that is, household stuff, such as tables, chairs, beds, pots, pans, kettles and the like. *Hoope's Appeal*, 60 Pa 220.

**instrument under seal.** See **sealed instrument; specialty**.

**insubordination.** Refusal to obey directions.

**in subsidium.** By way of subsidy; in aid of.

**in substantialibus.** In substance; substantially.

**insufficiency of repair.** A state of neglect or disrepair. In reference to a highway;—inadequacy of original construction, subsequent deterioration, and such obstacles or defects as render the use of the highway dangerous to one exercising ordinary care. 25 Am J1st High § 476.

See **defective highway**.

**insufficient consideration.** See **sufficient consideration**.

**insufficient funds.** The want of sufficient funds in a bank account for the payment of a check drawn by the depositor. 11 Am J2d B & N § 763.

See **overdraft**.

**insufficient pleading.** A pleading which will not stand against a demurrer or motion which is the equivalent of a demurrer. State v Burgdoerfer, 107 Mo 1, 17 SW 646.

**insufficient record.** See **defective record**.

**insula.** An island; a detached building; a building let out to several poor families.

**insular courts.** Courts established by Congress and invested with jurisdiction to be exercised in insular possessions of the United States.

**insulated car.** A freight car insulated to exclude the cold and prevent the freezing of perishable goods. 13 Am J2d Car § 170. Also, insulated to exclude heat where the car is cooled artificially.

**insulation.** Material used to prevent the passage or leakage of electricity, heat, or sound. A wrapping of nonconductive material around a wire intended to carry an electric current, for the purpose of preventing the discharge of electricity from the wire and of preventing disastrous consequences if the wire should happen to come in contact with a heavily and dangerously charged wire. Western Un-

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ion Tel. Co. v State, 82 Md 293, 33 A 763; Lynch v Carolina Tel. & Tel. Co. 204 NC 252, 167 SE 847. The process of insulating structures or wires.

**insulator.** A material or device which serves as insulation particularly a glass or porcelain device affixed to pole or cross bar of pole, whereto telephone, telegraph, or electric lines are attached. Owen v Appalachian Power Co. 78 W Va 596, 89 SE 262.

See **insulation**.

**insulin.** A drug taken for diabetes, capable of inducing intoxication within the meaning of statutes prohibiting driving a motor vehicle while intoxicated. 7 Am J2d Auto § 258.

**insult.** An indignity; a humiliation by word or gesture. An affront to self respect; in some jurisdictions an item of compensatory damages, in other jurisdictions an item of punitive damages. 22 Am J2d Damg § 197.

**insultus.** An assault.

**in summa.** On the whole.

**in summo jure.** In strictest law; in strictest right.

**in suo genere.** Of its own kind.

**In suo quisque negotio hebetior est quam in alieno.** Everyone is more stupid in his own business than in that of another.

**insuper.** Above; over; over and above; moreover; besides.

**in superficie.** On the surface; superficially.

**insurability.** The quality or condition of being insurable. *Kahn v Continental Casualty Co.* 391 111 445, 63 NE2d 468, In reference to life insurance:—all those physical and moral factors reasonably taken into consideration by life insurance companies in determining coverage or matters affecting the risk. *Rosenbloom v New York Life Ins. Co.* (DC Mo) 65 F Supp 692, remanded (CA8) 163 F2d 1. As a condition of the reinstatement of a life insurance policy:—good health; good health plus circumstances rendering the risk desirable from the standpoint of the insurance company. 29 Am J Rev ed Ins § 371.

**insurable interest.** An essential of a valid contract of insurance, being, in general, that which takes a contract out of the class of wagering policies; best defined in reference to the particular risk or thing insured. 29 Am J Rev ed Ins § 432.

See **interest or no interest clause; wager policy.**

**insurable interest in liability.** The interest that the insured has in the possibility of death of or injury to third persons, or of the destruction of or injury to the property of third persons, which may be the basis of a liability established against him or, at least, of suits brought against him. Anno: 77 ALR j 1256.

**insurable interest in life.** One's interest in his own life. Any reasonable expectation of benefit or advantage from the continued life of another person, which advantage or benefit need not be capable of pecuniary estimation, but may be predicated upon any relation which is such as warrants the conclusion that the person claiming an insurable interest has an interest, whether pecuniary or arising from dependence or natural affection, in the life of the person insured. 29 Am J Rev ed Ins § 474.

Any pecuniary interest in the continued life of another is an insurable interest. *Butterworth v Mississippi Valley Trust Co.* 362 Mo 133, 240 SW2d 676, 30 ALR2d 1298.

**insurable interest in property.** An interest in property to the extent that the owner of the interest derives a benefit from the existence of the property and will suffer a loss from its destruction. 29 Am J Rev ed Ins § 438. Any interest in property or any relation thereto or liability in respect thereof which is of such a nature that a contemplated peril might directly cause the insured a loss. *Farmer's Union Mut. Protective Assn. v San Luis State Bank*, 86 Colo 293, 281 P 366, 66 ALR 1166.

It is not necessary, to constitute an insurable interest, that the interest be such that the event insured against would necessarily subject the insured to loss; it is sufficient that it might do so and that pecuniary injury would be the natural consequence. *Rogers v Lumbermen 's Mut. Casualty Co.* 271 Ala 348, 124 So 2d 70; *United States Fidelity & Guaranty Co. v Reagan*, 256 NC 1, 122 SE2d 774.

A property or estate, legal or equitable, in the thing insured is not essential to an "insurable interest," which term is more extensive than property or estate and includes a qualified or limited interest in, or a reasonable expectation of legitimate profit or pecuniary benefit from the continued existence of, the subject of insurance. *North British & M. Ins. Co. v Sciandra*, 256 Ala 409, 54 So 2d 764, 27 ALR2d 1047; *American Indem. Co. v Southern Missionary College*, 195 Tenn 513, 260 SW2d 269, 39 ALR2d 714.

**insurable risk.** Any foreseeable risk of loss, except one caused by the insured's own misconduct or one of such nature that to insure it is prohibited by law or sound public policy. 29A Am J Rev ed Ins § 1133.

**insurance.** A contract whereby one undertakes to indemnify another against loss, damage, or liability arising from an unknown or contingent event. *Meyer v Building & Realty Service Co.* 209 Ind 125, 196 NE 250, 100 ALR 1442. An agreement by which one person for a consideration promises to pay money or its equivalent, or to perform some act of value, to another on the destruction, death, loss, or injury of someone or something by specified perils. 29 Am J Rev ed Ins § 3. A contract of indemnity where it affords protection against actual loss or damage; not where, as, in the case of life insurance, payment is to be made by the insurer upon the occurrence of the event insured against, without reference to the actual loss in dollars and cents. 29 Am J Rev ed Ins § 4.

The nature of a contract as one of insurance depends upon its contents and the true character of the contract actually entered into or issued—that is, whether a contract is one of insurance is to be determined by a consideration of the real character of the promise or of the act to be performed, and by a consideration of the exact nature of the agreement in the light of the occurrence, contingency, or circumstances under which the performance becomes requisite. 29 Am J Rev ed Ins § 5.

**insurance adjuster.** See **adjuster.**

**insurance agent.** A person expressly or impliedly authorized by an insurance company to represent it in dealing with third persons in matters relating to insurance. 29 Am J Rev ed Ins § 135. One who represents an insurance company as a solicitor of

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business or as a collector of premiums. *Home Beneficial L. Ins. Co. v Unemployment Compensation Com.* 181 Va 811, 27 SE2d 159. One who represents another in making application for insurance or otherwise in dealing with an insurance company in reference to insurance, called agent of insured. A person within an exemption from execution in favor of any mechanic, miner, or other person. *Wilhite v Williams*, 41 Kan 288, 21 P 256.

An insurance agent over whom the company retains no control in regard to the physical acts incidental to the performance of his general duties is not an agent of the company, but an independent contractor, in relation to the operation of his automobile while making collections and calling on clients. *American National Ins. Co. v Denke*, 128 Tex 229, 95 SW2d 370, 107 ALR 409.

See **insurance broker; soliciting agent.**

**insurance agent's lien.** See **insurance broker's lien.**

**insurance broker.** One who acts as a middleman between the insured and the insurer, and who solicits insurance from the public under no employment from any special company, but having secured an order, either places the insurance with a company selected by the insured, or in the absence of any selection by the latter, then with a company selected by himself. 29 Am J Rev ed Ins § 135.

Whether an insurance broker represents the insurer or the insured is a question which cannot be answered categorically but which depends upon the circumstances of the particular case. Under certain circumstances and for certain purposes, an insurance broker may represent either the insured or the insurer or both. 29 Am J Rev ed Ins § 139.

**insurance broker's lien.** Lien of an insurance broker or agent of the insured upon all policies in his hands procured by him for his principal, and also upon all moneys received by him upon such policies, for the payment of the amount due him for commissions, disbursements, advances, and services in and about the negotiation of that particular insurance and all past insurance, but not for the balance of a general account embracing items wholly disconnected with the business of placing insurance. 29 Am J Rev ed Ins § 175.

**insurance business.** The business of writing and issuing contracts of insurance, that is, insurance policies. 29 Am J Rev ed Ins § 5.

The business of insurance consists in accepting a number of risks, some of which will involve losses, and of spreading such losses over all risks so as to enable the insurer to accept each risk at the slightest fraction of possible liability upon it. *Home Title Ins. Co. v United States* (CA2 NY) 50 F 107.

**insurance carrier.** A familiar term in workmen's compensation cases, referring to the state fund, corporation, or association with which the employer has insured. *Sheehan Co. v Shuler*, 265 US 371, 373 (footnote), 68 L Ed 1061 (footnote), 44 S Ct 546. In the broad sense of the term, a company engaged in the business of insurance.

**insurance collector.** A person authorized by an insurance company to collect premiums becoming due under policies issued by it, particularly insurance companies engaged in the business of industrial insurance.

**insurance commissioner.** The head of a state department regulating insurance companies.

**insurance company.** A company engaged in the business of making contracts by which it agrees to indemnify the other parties thereto from a loss or damage which they may suffer from a specified peril. Strictly construed, an insurance company regularly incorporated and doing business as an old-line company, not a benevolent society or fraternal order providing insurance benefits for its members. 29 Am J Rev ed Ins § 781. An investment company within the meaning of § 3(a) of the Federal Investment Company Act. 15 USC § 80a-3(a).

As the term appears in a tax statute:—an incorporated organization, as contrasted with an unincorporated company or association; including a mutual company, a guaranty or surety company, a hospital service association, and an insurance association created by the legislature as an integral part of a workmen's compensation act. On the other hand, it has been held, under the statutory phraseology and facts and circumstances of a particular case, that for the purposes of such statute, the term may not be applied to a reciprocal insurance exchange, to a company dealing in industrial group insurance, to a mutual company, or to a corporation engaged in the business of servicing mortgages, investing in, and buying and selling bonds and mortgages, and originating and selling mortgage loans. Anno: 146 ALR 464 et seq.

See **benevolent insurance company; mutual benefit society; mutual insurance company; old line company; stock insurance company.**

**insurance contract.** A contract whereby one person undertakes to indemnify another against loss, damage or liability arising from an unknown or contingent event. An agreement by which one party for a consideration promises to pay money, or its equivalent, or do some act of value, to the assured, upon the destruction or injury of something in which the other party has an interest. State v Willett, 171 Ind 296, 86 NE 68. A contract whereby the insurer in return for a stated consideration agrees on the happening of a specified event to pay the insured a fixed or ascertainable sum of money. Re Barry's Estate, 208 Okla 8, 252 P2d 437, 35 ALR2d 1052.

See **binder; blanket policy; cash-surrender value; floating policy; insurance; oral insurance contract; rider; slip.**

**insurance cost.** A term significance primarily in life insurance.

Cost is established by mortality tables and invariably increases with age. It is the sum necessary to be paid in during the period of expectancy to amount with interest accretions to the face of the policy. It has nothing to do with rates. It is the toll annually taken from the insurer's assets. Jenkins v Talbot, 338 Ill 441, 170 NE 735, 80 ALR 638.

**insurance department.** A state agency for the supervision or regulation of insurance companies.

**insurance exchange.** An association of insurance companies or insurance agents for the purpose of promoting the business, welfare, and convenience of the members, and to secure uniformity in the insurance business. 29 Am J Rev ed Ins § 109. In another and distinct sense, the operation of the system known as reciprocal insurance, interinsurance, or interindemnity, whereby individuals, partnerships, or corporations, engaged in a similar line of business, undertake to indemnify each other against a certain kind or kinds of losses by means of a mutual exchange of insurance contracts, usually through the medium of a common attorney in fact appointed for that purpose by each of the underwriters, under agreements whereby, as between

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themselves, each member separately becomes both an insured and an insurer with several liability only. 29 Am J Rev ed Ins § 102.

**insurance fund.** See **state insurance fund.**



**insurance money.** Money recoverable on a policy of insurance by the insured against the insurance company which issued the policy. *Stacey v Fidelity & Casualty Co.* 21 Ohio App 70, 73, 152 NE 794, 795.

**insurance patrol.** A salvage corps operated by an insurance company, or insurance companies in combination, for the purpose of attending at fires and salvaging or protecting the imperiled property. *Coleman v Fire Ins. Patrol*, 122 La 626, 48 So 130.

**insurance policy.** The name by which the formal written instrument in which a contract of insurance is embodied is known. 29 Am J Rev ed Ins § 186.

See **insurance contract**.

**insurance premium.** The agreed price for assuming and carrying the risk—that is, the consideration paid an insurer for undertaking to indemnify the insured against a specified peril. *State ex rel. Sheets v Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co.* 68 Ohio St 9, 67 NE 93.

**insurance rate.** The premium rate. 29. Am J Rev ed Ins § 503.

See **manual rates**.

**insurance reserve.** See **reserve**.

**insurance solicitor.** An insurance agent who solicits business for his company in the form of insurance policies or contracts. 29 Am J Rev ed Ins § 135.

See **insurance agent**.

**insurance trust.** See **life insurance trust**.

**insure.** To contract to indemnify a person against loss from stated perils; to enter into a contract of insurance as insurer.

**insured.** Ordinarily, synonymous with "assured." 29 Am J Rev ed Ins § 239. The person in whose favor a contract of insurance is operative and who is indemnified against, or is to receive a certain sum upon, the happening of a specified contingency or event. 29 Am J Rev ed Ins § 239. Protected by insurance. The person protected by an automobile liability policy, although not the insured named in the policy, by virtue of the standard provision of the policy extending the protection to any person using the vehicle covered by the policy with the permission of the named insured. *Libero v Lumbermen's Mut. Casualty Co.* 141 Conn 574, 108 A2d 533, 47 ALR2d 550.

The circumstance that one who takes out a policy of insurance on his own life may never obtain the benefits of the insurance directly is of no weight against considering him as the "insured," such a contract being his, at least in part. *Heffelfinger v Commissioner* (CA8) 87 F2d 991, 109 ALR 1045, cert den 302 US 690, 82 L Ed 533, 58 S Ct 10.

When used as a noun in fire insurance policies, the word should be construed to include the person whose property is insured and his legal representatives, but, in the absence of clauses protecting other persons, it should not be extended to include any other persons, such as a mortgagee of the property. *Collinsville Sav. Soc. v Boston Ins. Co.* 17 Conn 676, 60 A 647.

See **loss payable clause; mortgagee clause; standard mortgagee clause**.

**insured bank.** A bank, the deposits of which are insured by the Federal Deposit Insurance Corporation. Anno: 59 ALR2d 972.

**insured deposit.** A bank deposit insured by the Federal Deposit Insurance Corporation. The net amount due to any depositor for a deposit in an insured bank (after deducting offsets), less any part thereof which is in excess of \$10,000. 12 USC § 1813(m).

**insured premises.** The real property covered by a policy of insurance protecting against loss or damage or against liability for an injury to a third person occurring on the premises.

**insured's permission.** See **permission of insured.**

**insured title.** A title to real estate insured by a policy of title insurance. A title to real estate such as a designated title insurance company will approve and insure. 55 Am J1st V & P § 165.

See **title insurance.**

**insurer.** The party to a contract of insurance who assumes the risk and undertakes to indemnify the second party known as the insured or to pay a certain sum on the happening of a specified contingency. 29 Am J Rev ed Ins § 238.

**insurer's liability.** Literally, the liability of an insurer. In common usage, a term of art. importing absolute liability. A liability which is absolute except as the injury is caused by the public enemy or an act of God or is self-inflicted. *Anderson Hotels of Oklahoma, Inc. v Baker* (CA10 Okla) 190 F2d 741, cert den 342 US 869, 96 L Ed 654, 72 S Ct 111.

**Insurers' Liquidation Act.** One of the uniform laws. 29 Am J Rev ed Ins § 118.

**insurgent.** A person who engages with others in an insurrection; partaking of or relating to an insurrection. A term of politics for a member of a party who goes against the leadership either in advocacy of principle or in an attempt to overthrow the leadership.

**insurrection.** A rising against civil or political authority, more than a mob or riot, sometimes amounting to a rebellion, at least, an incipient or limited rebellion. *Gitlow v Kiely* (DC NY) 44 F2d 227, affd (CA2) 49 F2d 1077, cert den 284 US 648, 76 L Ed 550, 52 S Ct 29; *County of Allegheny v Gibson*, 90 Pa 397.

In a marine insurance policy on a cargo of slaves, the words "insurrection" and "mutiny" were held to be substantially identical in meaning. *McCargo v New Orleans Ins. Co.* (La) 10 Rob 202.

See **rebellion.**

**insurrectionaries.** The individual participants in an insurrection or rebellion.

**insurrectionists.** Same as **insurrectionaries.**

**in suspenso.** In suspense; in abeyance.

**in syllabis et verbis.** In syllables and words.

**intact value.** The real value of a share of corporate stock as distinguished from its book value. 18 Am J2d Corp § 219.

**intake.** The opening in a pipe in lake, pond, or river through which water is taken for a public water supply. 56 Am J1st Watwk § 51.

**intaker.** A receiver of stolen goods.

**in tali casu editum et provisum.** In such case made and provided.

**In tali conflictu magis est, ut jus nostrum, quam jus aliorum servemus.**

In such conflict it is better that we obey our own law than the laws of other nations. That is, in the conflict between the *lex fori* and the *lex loci contractus*, the comity of nations should not prevail over our law. *McMahan v Green*, 12 Ala 71.

**intangible.** Adjective: Incorporeal; without physical substance; difficult to appraise. Noun: A chose in action; a thing, perhaps of value, but without physical substance in itself.

See **chose in action; intangible property.**

**intangible property.** Rights not related to physical things, being merely relationships between persons, natural or corporate, which the law recognizes by attaching to them certain sanctions enforceable in the courts. *Curry v McCannless*, 307 US 357, 83 L Ed 1339, 59 S Ct 900, 123 ALR 162. Property rights protected by the due process clause equally with ordinary real and personal property. 16 Am J2d Const L § 365. For purpose of taxation:-enforceable claims and solvent credits such as bills, notes, and other obligations to pay money, and shares of corporate stock. 51 Am J1st Tax § 420.

An unallowed claim for a refund of Federal income taxes is taxable as "other taxable intangibles" rather than as "credits," under statutes taxing money, credits, investments, deposits, and other intangible property, defining "credits" as the excess of current accounts receivable over current accounts payable, defining "current accounts" as items receivable or payable on demand or within one year of the date of inception, and defining "other taxable intangibles" as including every valuable right, title, or interest not comprised within or excluded from the preceding statutory sections of a specific nature. *Glidden Co. v Glander*, 151 Ohio St 344, 86 NE2d 1, 9 ALR2d 515.

See **chose in action; incorporeal property; situs; situs for taxation.**

**intangible res.** An intangible, such as a claim for freight, made the defendant in a proceeding in rem. *United States v The Mt. Shasta*, 274 US 466, 71 L Ed 1156, 47 S Ct 666.

**intangible value.** A right or value in a public utility plant evidenced by no physical object but for the development of which the owner has incurred expense and which is properly considered in evaluating the plant for rate-making purposes. 43 Am J1st Pub Util § 132. Going-concern value.

**in tantum.** In so much.

**integer.** Whole; entire; undiminished; unharmed; blameless.

**integral.** Lacking nothing of completeness. *Tebeau v Ridge*, 261 Mo 547, 170 SW 871. In mechanics, all of one piece, as of metal or wood. *Heuberger v Becker*, 27 Cust & Pat App 746, 107 F2d 601.

**integral part.** A part essential to completeness. A test employed in determining whether an employer whose business is restricted to selling merchandise in a local market at retail is within the jurisdiction of the National Labor Relations Board, the doctrine being that if the retailer is an "integral part" of an interstate system of distribution, as where he operates under a franchise from, and is subject to the control of, a national manufacturer, his business affects interstate commerce and he is subject to the jurisdiction of the board. Anno: 98 L Ed 221.

**integrated bar.** A governmental body created by statute or rules of court, composed of all the practicing attorneys in the state, their membership in the body being compulsory, operating to control the practices of attorneys by requiring adherence to a code of ethics and instituting disciplinary proceedings for infractions of the code. 7 Am J2d Attys § 7.

**integrated bar association.** In effect, a bar association to which all practicing attorneys must belong.

See **integrated bar.**

**integrated contract.** A written contract which contains all the terms and conditions of the agreement. 17 Am J2d Contr § 260.

**integration.** In the most modern sense of the term, the bringing together of people of all races, but particularly of the black and white races, in all the common concerns of men-educational, political, industrial, religious, and social-by removing all bars of discrimination based on race or color. As a term of economics, the status of an industry operating in continuity from the extraction of the raw materials to the last process in the completion of the product. *United States v United States Steel Corp.* 251 US 417, 438, 64 L Ed 343, 348, 40 S Ct 293.

**integration of the bar.** See **integrated bar.**

**integration theory.** The theory that the business situs of intangible property, for the purposes of property taxation in a state other than the domicile of the owner, is determined according to whether or not the intangibles have become an integral part of some business activity, and their possession and control localized in an independent business or investment away from the owner's domicile, so that their substantial use and value primarily attach to and become an asset of the outside business, or, in other words, that the local independent business controls and utilizes the intangible property in its own operations. Anno: 143 ALR 367; 51 Am J1st Tax § 470.

**integrity.** Uprightness of character and soundness of moral principle; honesty; probity. *Crocheron v Babington*, 16 Idaho 441, 101 P 741.

A married woman's unfaithfulness to her husband and her violation of marital obligations, does not tend to show her lack of integrity to qualify as administratrix of his estate, under a statute making "lack of integrity" a disqualification. *Estate of Newman*, 124 Cal 688, 57 P 686.

**integro.** See **de integro; ex integro.**

**integrum.** See **in integrum.**

**intellectual insanity.** Mental unsoundness to the extent of being unable to distinguish between right and wrong, or, as sometimes stated, incapacity to understand the nature and quality of the act or, if aware of such, inability to know that it is wrong to commit such act. 26 Am J1st Homi §§ 78, 79.

**intellectual property.** Those property rights which result from the physical manifestation of original thought. *Weil*, Copyright L 1917 § 6.

**intelligence office.** An unusual term for an office kept for the purpose of obtaining places of employment for female domestic servants or other laborers. *Keim v Chicago*, 46 Ill App 445, 446.

**intelligence quotient.** A rating by number of the level of intelligence of a particular person.

**intemperance.** Want of restraint in habits and conduct. The intemperate use of intoxicating liquor. Anno: 26 ALR 1291. The habitual and excessive

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use of intoxicating liquor. *Deadwyler v Grand Lodge*, K. P. 131 SC 335, 126 SE 437. Indulging in intoxicants excessively whenever the occasion offers. *Tatum v State*, 63 Ala 147, 152. Overindulgence in the use of intoxicating liquors so frequently as to constitute a habit. 29 Am J Rev ed Ins § 774.

See **habitual intemperance; intoxication.**

**intemperant use of intoxicating liquor.** An expression found in the form of a question propounded by the insurer in an application for life insurance, meaning indulgence to the point of impairment of mental or physical health, thereby rendering the risk more hazardous. Anno: 26 ALR 1291.

See **intemperance**.

**intemperate habits.** See **intemperance; habitual intemperance**.

**intend.** To intend is to fix the mind upon; to have a design; to purpose. *People v Vanderpool*, 1 Mich NP 264, 267.

**intendant.** A superintendent; a manager; an important officer.

**intended.** Fixed in the mind; designed; purposed.

As used in a statute barring a right to recover the purchase price of preparations intended or designed for illegal use, the words are held to include a design and intention on the part of the vendor that the preparation sold by him will be used in an unlawful manufacture. The word intended is held to mean more than mere knowledge and to import knowledge of the seller accompanied by some act on his part indicating consent to or encouragement in the unlawful use. *Jacobs v Danciger*, 328 Mo 458, 77 ALR 1237, 41 SW2d 389.

**intending passenger.** A person who enters upon the premises of a carrier of passengers with the bona fide intention of becoming a passenger, and awaits the arrival of his train or other conveyance at a proper place, in a proper manner, and within a reasonable time before the arrival of such train or other conveyance. *Palmer v Willamette Valley Southern Railway Co.* 88 Or 322, 171 P 1169.

**intendment.** The meaning of a word. Legal meaning. 27 Am J1st Indict § 55.

See **common intendment; rule of intendment**.

**intendment of law.** A presumption of law; legal meaning; meaning peculiar to the law.

**intent.** Adjective: With fixed purpose; earnest; determined; engrossed. Noun: Purpose. The purpose to use a particular means to effect a certain result. *Baker v State*, 120 Wis 135, 97 NW 566. A constituent element of all criminal acts, but not necessarily conscious wrongdoing. 21 Am J2d Crim L § 81. An inference of law from facts proved. *State v La Page*, 57 NH 245.

See **common intent; criminal intent; design; felonious intent; general criminal intent; legal intent; rational intent; specific intent**.

**intentiono.** (Civil law.) Intent; intention; meaning; the formal complaint of the actor or plaintiff in an action.

**Intentiono caeca mala.** A concealed intention or meaning is bad.

**intentiono inservire debet legibus, non leges intentionis.** Intention should be subservient to the laws, not the laws to intention.

**Intentiono mea imponit nomen operi meo.** My intent stamps or impresses a name upon my act.

**intention.** Purpose. That which is intended.

See **declaration of intention; floating intention; intend; intent**.

**intentional.** Performed or done with intent.

In the law of private nuisance an invasion of another's interest in the use and enjoyment of land is intentional when the person whose conduct is in question as a basis for liability acts for the purpose of causing it, or knows that it is resulting from his conduct, or knows that it is substantially certain to result from his conduct. Anno: 54 ALR2d 769.

**intentional injury.** An injury inflicted by positive, willful, and aggressive conduct; an injury inflicted with design and foresight, as distinguished from an injury caused by negligence or sustained by mishap. *Cleveland, Cincinnati, Chicago & St. Louis Railway Co. v Tarrt* (CA7 Ill) 99 F 369; *American Acci. Co. v Carson*, 99 Ky 441, 36 SW 169.

**intentionally.** In an intentional manner, with design, of purpose. *McNamara v St. Louis Transit Co.* 182 Mo 676, 81 SW 880.

**intention of parties.** The primary consideration in determining the making, as well as in the interpretation of a contract.

**intention of testator.** The intention manifested in the terms of the will, not necessarily the intention existing in the mind of the testator. *Yeates v Yeates*, 179 Ark 543, 16 SW2d 996, 65 ALR 466.

**intent to commit a felony.** See **burglary; felonious intent.**

**intent to defraud.** An intent to commit a fraud.

The words as used in a statute making it an offense to pretend to be an officer or employee acting under the authority of the United States, do not require more than that the person charged has, by artifice and deceit, sought to cause the deceived person to follow some course he would not have pursued but for the deceitful conduct. *United States v Lepowitch*, 318 US 702, 87 L Ed 1091, 63 S Ct 914.

See **fraud.**

**intent to kill.** See **assault with intent to kill; intent to take life; murder.**

**intent to nuncupate.** The intention of one who is in extremis to make a nuncupative will. 57 Am J1st Wills § 656.

**intent to rape.** See **assault with intent to rape.**

**intent to steal.** The intent or purpose which a thief has to deprive another of his goods. The intent of one taking personal property without the consent of the owner to deprive the owner permanently of his property or its value. 32 Am J1st Larc § 36.

**intent to take life.** The willingness to take, or unwillingness to respect, human life. 26 Am J1st Homi § 34.

**inter.** Between; among; amid; in; during.

**inter absences.** Among or between persons who are absent.

**inter else.** Among other things or matters. See 4 Bl Comm 129.

**Inter alias causas acquisitionis, magna, celebris, et famosa est cause donationis.** Among other means of ac-

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quisition, there is a great, frequently used and famous means, that of gift.

**inter alios.** Among others; between other persons.

**inter alios acta.** Acts or transactions between other persons; acts or transactions between persons other than those before the court.

**Inter alios res gestas aliis non posse praejudicium facere saepe constitutum est.** It has often been decided that matters which were transacted between some persons cannot operate as a prejudice to other persons.

**Inter-American Coffee Agreement.** An agreement made by the President of the United States with the representatives of coffee producing countries of the Western Hemisphere, providing quotas for the importation of coffee into the United States from such countries. 19 USC § 1356.

**inter amicos.** Among or between friends.

**inter apices juris.** Among the extremities or subtleties of the law. *Hinsdale v Miles*, 5 Conn 331, 334.

**Inter arma silent leges.** Amidst arms the laws are silent; that is, in time of war.

**inter brachia.** Between arms.

**inter caeteros.** Among or between other persons.

**intercalate.** To insert; to insert or intercalate a month or a day in the calendar.

**intercalary month.** An extra month in the calendar inserted at intervals by the Jews, Arabs and Turks, who still use the lunar month, as did the ancient Greeks, for the purpose of reconciling solar time with lunar time.

**inter canem et lupum.** (Latin.) Literally, between the dog and the wolf. Figuratively, the twilight, the time when the dog goes to rest and the wolf to hunt.

**intercedere.** (Civil law.) To stand between; to intervene; to interpose as a mediator; to stand surety.

**intercepted shipment.** A shipment of goods by the seller which the buyer intercepts before it reaches its original destination, thereby actually and lawfully obtaining possession. Anno: 7 ALR 1385; Uniform Sales Act § 58(2)(a).

**intercepting merchandise on way to market.** See **forestalling the market.**

**intercepting telephone conversation.** A breach of privacy in listening without the consent of the communicants, whatever the method used to hear or record the conversation may be. *United States v Polakoff* (CA2 NY) 112 F2d 888, 134 ALR 607. Obtaining a telephone communication or message by wiretapping device. *Benanti v United States*, 355 US 96, 2 L Ed 2d 126, 78 S Ct 155.

**interchangeably.** In the way, mode or form of exchange.

"A term constantly used in the concluding clause of indentures (in witness whereof the said parties have hereunto interchangeably set their hands and seals) and properly imputing not only an execution by all the parties, but an actual interchange of signatures and seals and such as takes place in the case of instruments executed in duplicate, or in part and counterpart, where the signature and seal of each party are affixed to the part given to the other." *Roosevelt v Smith*, 17 Misc 323, 325, 40 NYS 381.

**interchange of cars.** The practice in railroading whereby the cars of one company are transported over the lines and in the trains of other companies. *Jacobson v Wisconsin M. & K. R. Co.* 71 Minn 519, 74 NW 893, affd 179 US 287, 45 L Ed 194, 21 S Ct 115.

**interchange of traffic.** The movement of freight, also of passengers from a carrier to a connecting carrier. 14 Am J2d Car § 662.

**intercommon.** To enjoy mutual rights of common in adjoining lands; as where the beasts of each of two adjoining owners stray mutually into the field of the other, without any molestation from either. See 2 Bl Comm 33.

**intercommoning.** Enjoying the rights of intercommon in adjoining lands.

See **intercommon.**

**inter conjuges.** Between a husband and his wife.

**inter conjunctas personas.** Between conjunct persons.

See **conjunct persons.**

**intercourse.** A commingling; intimate connections between persons or nations, as in common affairs and civilities, in correspondence or trade; communication; commerce, especially interchange of thought and feeling; association; communion. Not necessarily sexual intercourse. *People v Howard*, 143 Cal 316, 320, 76 P 1116.

See **commerce; sexual intercourse.**

**interdict.** Verb: To prohibit. Noun: An interdiction.

See **interdiction.**

**interdiction.** An authoritative prohibition. An order of a high ecclesiastical officer prohibiting divine services in certain specified places or under the direction of certain specified persons.

**interdiction of commerce.** A reprisal by one nation against another whereunder, by order promulgated by the authorities of the former, all trade between it and the other must cease for the time. *The Edward Scott (US)* 1 Wheaton 261, 272, 4 L Ed 86, 88. The closing of a port to commerce. *Craig v United Ins. Co. (NY)* 6 Johns 226.

**interdiction of fire and water.** An interdict ordering a person to be banished from the kingdom and prohibiting any person from furnishing him with either fire or water.

**interdictum salvianum.** (Roman law.) The foreclosure of a pledge of the goods of a tenant given by him as security for the payment of rent.

**Interdum evenit ut exceptio quae prima facie justa videtur, tamen unique noceat.** It sometimes happens that a plea which on its face seems just, is nevertheless unfair and inequitable.

**interesse.** Interest; an interest.

**interesse termini.** The interest of a lessee acquired upon the execution of the lease and before taking possession of the premises. 32 Am J1st L & T § 27.



**interest.** A right in, or share of, something. Concern. The compensation allowed by law, or fixed by the parties, for the use, detention, or forbearance of money or its equivalent. 30 Am J Rev ed Int § 2. Compensation payable on a contractual basis or allowed by way of damages. 22 Am J2d Damg § 179. A means of compensation, as distinguished from a penalty which is a means of punishment. *United States v Childs*, 266 US 304, 69 L Ed 299, 45 S Ct 110. As taxable income:—the compensation paid for the use of money. *Sayles v Commissioner of Corp. & Taxation*, 286 Mass 102, 189 NE 579, 91 ALR 1267.

The word as used in a codicil may, depending upon the context and the presence or absence of qualifying words have the meaning of "income" in one part of the instrument and "share" in another. *Hilton v Kinsey*, 88 App DC 14, 185 F2d 885, 23 ALR2d 830.

See **absolute interest; adverse interest; affected with a public interest; appealable interest; beneficial interest; declaration against interest; interest in property; party in interest; power coupled with an interest.**

**interest annually.** See **annual interest; at interest; compound interest; conventional interest; customary interest; discount; discretionary interest; Jewish interest; legal interest; legal rate of interest; marine interest; maritime interest; mercantile rule; moratory interest; per annum; rests; simple interest; United States rule; with interest; with interest annually.**

**interest-bearing stock.** Another term for preferred stock. 19 Am J2d Corp § 872.

See **preferred stock.**

**interest by way of damages.** Sometimes called moratory interest,—interest allowed in actions for breach of contract or tort as damages for the unlawful detention of the money found to be due, not by way of contract or arbitrary rule, but by way of reparation as justice demands. 22 Am J2d Damg § 179.

**interest coupons.** Instruments attached to a note or bond to evidence the interest maturing at stated intervals over the term of the principal debt, usually executed in a form which constitutes them separate promissory notes distinct from the obligation to which attached. 11 Am J2d B & N § 21.

See **interest from bond.**

**interest, dividends, rents and profits.** As the term appears in stating the subject of a gift or grant by will, deed, or trust instrument:—net income. *Re Heaton*, 89 Vt 550, 96 A 21.

**interested.** Having an interest.

See **interested person.**

**interested in estate.** One having some pecuniary interest in the estate of a decedent, so as to be entitled to notice of hearing upon the final report and prayer for discharge of the personal representative. *Re Holman*, 216 Iowa 1186, 250 NW 498, 98 ALR 1363.

**interested in patent.** Owning the exclusive right at the time an infringement was committed. *Moose v Marsh (US)* 7 Wall 515, 19 L Ed 37, 39 (construing statute authorizing action for infringement by person interested.)

**interested person.** A person concerned or having an interest. Within the meaning of a statute designating persons eligible to contest a will:—one who has such an interest as may be impaired or defeated by the probate of the will or benefitted by setting it aside. *Re Plaut*, 27 Cal 2d 424, 164 P2d 765, 162 ALR 837. In reference to the right to appeal from a judgment, one who has some immediate legal right, or is under some legal liability, that may be enlarged or diminished by the judgment. 4 Am J2d A & E §§ 182 et seq. As a person incompetent to testify against the personal representative of a deceased person, a person having a direct legal interest, a pecuniary interest, in the result of the suit. 58 Am J1st Witn § 287. In reference to the right to intervene in

an action, an interest in the matter in litigation of such direct and immediate character that the intervenes will either gain or lose by the direct legal operation and effect of the judgment. 39 Am J1st Parties § 61.

A statute disqualifying a judge for relationship to "any person" interested in the proceedings has been held to disqualify a judge on the basis of his relationship to an attorney in the cause before him, where the attorney's fee was dependent upon his success. *Vine v Jones*, 13 SD 54, 82 NW 82.

As to who is a "person interested" in the estate of a decedent under statutes apportioning the estate tax among persons interested, see Anno: 37 ALR2d 215.

**interest eo nomine.** Interest on money specially provided for by statute. *Oppenheim v Hood*, 33 SW2d 265.

**interest equalization tax.** A tax on the acquisition of foreign securities, being an economic device imposed to increase the cost to foreigners of borrowing United States capital, for the purpose of cutting down the flow of United States capital abroad, thereby improving the position of the United States respecting the balance of international payments. IRC § 4911(a).

**interest from bond.** Interest payable in the usual sense, that is, as compensation for the use of money, notwithstanding the obligation is encompassed in a coupon. *Sayles v Commissioner of Corps. & Taxation*, 286 Mass 102, 189 NE 579, 91 ALR 1267; *Commissioner of Corps. & Taxation v Williston*, 315 Mass 648, 54 NE2d 43, 151 ALR 1395.

**interest in case.** A pecuniary or property interest in the event or subject matter of the action or in the judgment to be rendered. Anno: 10 ALR2d 1320.

See **interest in subject matter.**

**interest in contract.** A term familiar in statutes respecting the private concern of a public officer in a public contract negotiated by him, meaning any interest which prevents him from exercising absolute loyalty and undivided allegiance to the best interests of the public body which he serves, not necessarily an interest involving direct financial gain upon his part. *Miller v Martinez*, 28 Cal App 2d 364, 82 P2d 519.

**interest in land.** See **interest in property.**

**interest in litigation.** See **interest in subject matter.**

**interest in property.** In the broader sense of the term, ownership of a particular property, whether of the full or a lesser interest. More precisely, a right in or to property which is less than ownership or title, 29A Am J Rev ed Ins § 825. A right less than an estate. *Garner v Milwaukee Mechanics' Ins. Co.* 73 Kan 127, 84 P 717. In free usage, an estate. Embracing both legal and equitable rights. *Gibb v*

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*Philadelphia Fire Ins. Co.* 59 Minn 267, 61 NW 137.

Under a statute requiring a license to engage in the business of buying and selling interests in real estate, there is strong support for the view that a person engaged in buying or selling businesses as going concerns, including real estate as a part of the subject matter of the transfer, is not within the statute. But there is authority to the contrary. 12 Am J2d Brok § 15.

The term "interest in land," as used in the statute of frauds, means some portion of the title or right of possession, and does not include agreements which may affect land but which do not complete the transfer of any title, ownership, or possession. 49 Am J1st Stat of F § 154.

See **change of interest; chattel interest; estate; executory interests; insurable interest; landed interest; license coupled with an interest; life interest; limited interest; possessory interest; power coupled with an interest; public interest; qualified interest; royalty interest; unity of interest; vested in interest; vested interest.**

**interest in real property.** See **interest in property.**

**interest in subject matter.** For the purpose of intervention, some legal or equitable interest in the subject of the action which a judgment or decree will or may affect. *Universal Oil Products Co. v Standard Oil Co.* 6 F Supp 37. For the purpose of a statute rendering one interested in the subject matter incompetent as a witness in an action by or against a legal representative of a decedent, one having a direct pecuniary interest in the subject matter of the litigation before the court so as to constitute him at the time an "opposite party" to the estate of deceased. *Beaupre v Holzbaugh*, 327 Mich 101, 41 NW2d 338, 27 ALR2d 532. In reference to parties on appeal, one whose interest may be adversely affected by the decision on appeal. 4 Am J2d A & E § 276.

**interest in the event.** One's position in reference to an action being such that he will either gain or lose by the direct legal operation and effect of the judgment of the court disposing of the facts in dispute, or such that the record of a judgment will be legal evidence for or against him in some other action. 58 Am J1st Witn § 288.

**interest may appear.** See **as interest may appear.**

**interest on indebtedness.** Compensation for the use or forbearance of money. *Deputy v DuPont*, 308 US 488, 84 L Ed 416, 60 S Ct 363.

See **interest.**

**interest on interest.** A middle course between simple interest and compound interest. 30 Am J Rev ed Int § 61.

See **compound interest.**

**interest on money.** See **interest.**

**interest or no interest clause.** A clause or provision in an insurance policy whereby the insurer waives the right to question the interest or ownership of the insured in the property insured. 29A Am J Rev ed Ins §§ 1013, 1015.

**interest policy.** A true rather than a wager policy; a policy protecting a real and substantial interest of the insured. *Sawyer v Dodge County Mut. Ins.. Co.* 37 Wis 503, 539.

**interest upon condition precedent.** A contingent interest. Anno: 71 ALR 1053, 1054.

**interest upon condition subsequent.** A vested interest subject to be divested. Anno: 71 ALR 1053, 1054.

**Interest reipublicae ne maleficia remaneant impunita.** It is to the interest of the commonwealth that malefactors do not go unpunished. *Abbott v Territory*, 20 Okla Crim 1, 94 P 179.

**Interest reipublicae ne sua quis male utatur.** It is in the interest of the state that no one make a bad use of his own property.

**Interest reipublicae quod homines conserventur.** It is in the interest of the state that men should be protected.

**Interest reipublicae res judicatas non rescindi.** It is of interest to the state that judgments should not be reversed or set aside.

**Interest reipublicae suprema hominum testamenta rata haberi.** It is of interest to the state that the last wills of men should be held valid.

**Interest reipublicae ut carceres sint in tuto.** It is of interest to the state that the prisons should be safe.

**Interest reipublicae ut pax in regno conservetur, et quaecunq̄ue paci adversentur provide declinentur.** It is of interest to the state that peace should be preserved within the kingdom, and whatever things are opposed to peace should be prudently avoided.

**Interest reipublicae ut quilibet re sua bene utatur.** It is in the interest of the state that each person should make a good use of his own property.

**Interest reipublicae ut sit finis litium.** It is in the interest of the state that there should be an end of a lawsuit.

**interests.** See **interest.**

**interest suit.** A contest between parties interested in the estate of a deceased person for the right to administer it.

**interest upon interest.** See **interest on interest.**

**interference.** A tort in violating the right of another to be secure in his business and contract relationships and in his relationship with another as an employer or employee. A tort actionable as malicious in the legal sense where not justified or constituting an exercise of an absolute right. 30 Am J Rev ed Interf § 2. An employer's restraint or coercion of employees in respect of their exercise of rights guaranteed by the Labor Management Relations Act, particularly the right of collective bargaining. 31 Am J Rev ed Lab § 226. The acts of a labor union in impeding the exercise of the right of a worker to dispose of his services in a free labor market. 31 Am J Rev ed Lab § 144. The acts of a labor union, performed maliciously and without justifiable cause, to induce third persons to leave an employment, to induce others not to enter into the service, or to combine to injure an employer by inducing workmen not to enter into employment with him. 31 Am J Rev ed Lab § 140. Another term for interference proceeding. 40 Am J1st Pat § 73.

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An obstruction or hindrance to use, such as the placing of railings or barriers in a highway. 25 Am J1st High § 532.

**interference and domination.** The participation of a corporation employer in revamping or recasting the organization of an independent labor union. *Continental Oil Co. v NLRB* (CA 10) 113 F2d 473.

**interference proceeding.** A proceeding before officers of the Patent Office for the purpose of determining the relative priority of two inventions which conflict with each other. 40 Am J1st Pat § 73.

**interference with burial.** A tort consisting in interfering with the right to the solace of burying the body of one's spouse or kin, whether by mutilation of the body after death, disturbing it otherwise, withholding it or preventing entrance to the cemetery. 22 Am J2d Dead B § 17. An unconstitutional interference with private rights in refusal on the part of a public officer, to permit one to bury the body of his friend or relative except under unreasonable restrictions. 22 Am J2d Dead B § 2.

**interference with mail.** Any obstruction to or hindering of the transportation and delivery of the mail. 41 Am J1st P O § 72.

**interference with military activities.** A criminal offense in obstructing or interfering with the recruiting or enlistment services of the United States, or other military, naval, or war activities or efforts. 47 Am J1st Sedit etc. § 12.

**interference with trade or calling.** A term applied to the tort of intermeddling in certain relations affecting a man's trade occupation, profession, or means of gaining a livelihood. 30 Am J Rev ed Interf § 44.

**interfere with.** Affirmative conduct essentially; not including a refusal to deal with employees collectively. Anno: 123 ALR 622; 83 L Ed 691.

**interim.** Meanwhile; in the meantime. Hence, temporary, as interim receipt.

**interim allowance.** See **temporary allowance.**

**interim certificate.** A receipt issued on a subscription for corporate stock or a purchase of bonds or other securities, to be held by the subscriber or purchaser until the securities purchased are ready for delivery, being in effect the promise or obligation of the issuer to deliver the securities when issued. 11 Am J2d B & N § 28.

**interim committitur.** An order of commitment directing temporary custody of a person.

**interim curator.** A temporary guardian or custodian of property.

**interim dividend.** A corporate dividend payable on a date between regular dividend paying dates; a dividend which may be rescinded or revoked where such action is made advisable by an adverse change in the circumstances of the corporation. *Lagunas Nitrate Co. v Schroeder & Co.* (Eng) 85 LT NS 22, 17 Times L 625.

**interim factor.** A temporary trustee appointed to take charge of the property of a bankrupt.

**interim officer.** An officer appointed to take charge and to perform the duties of an office temporarily; an officer pro tempore.

**interim order.** A provisional order of court, such as a temporary injunction. A provisional or temporary order by an administrative agency. 2 Am J2d Admin L § 466. An interlocutory order.

See **interlocutory order; provisional order.**

**interim ordinance.** A zoning ordinance intended to preserve the status quo of a particular section or sections of the municipality pending the adoption of permanent zoning regulations, the purpose of the ordinance being to prevent the evasion of a comprehensive zoning plan in prospect by entering upon a course of construction during the time that it takes to work out the details of and enact a complete zoning plan. 58 Am J1st Zon § 137.

**interim receipt.** In insurance parlance, a binder or contract of temporary insurance. 29 Am J Rev ed Ins § 205.

See **interim certificate.**

**interim receiver.** Same as **temporary receiver.**

**interim report.** A report by a fiduciary of the condition of the estate and his administration thereof, furnished between the filing of the inventory of the estate and the final report, either as required by law or by order of the court. A report required of a trustee in bankruptcy concerning the condition of the estate in bankruptcy, the amount of money on hand, and such other details as may be required by the court, one to be furnished within the first month after the appointment of the trustee, and one every two months thereafter, unless otherwise ordered by the court. 9 Am J2d Bankr § 1259.

**interindemnity.** Same as **reciprocal insurance.**

**interinsurance.** Same as **reciprocal insurance.**

**interinsurance association.** An association engaged in providing reciprocal insurance for its members. 29 Am J Rev ed Ins § 102.

See **reciprocal insurance**.

**Interior Department.** An executive department of the United States Government, headed by a Secretary of the Interior, who is charged with supervision of public business relating to public lands, Indians, mines, reclamation, fish and wildlife service, geological survey, and other subjects and agencies. 54 Am J1st US § 52.

**interline.** To write between lines already written, for the purpose of adding to, or correcting what is written. Russell v Eubanks, 84 Mo 82, 88.

**interlineation.** The act of interlining. That which is interlined. An alteration of an instrument. 4 Am J2d Alt Inst § 36.

See **interline**.

**interlocking device.** A device at a railroad crossing installed to control the signals and gates so that one will not be working independently of the other. Anno: 40 ALR 758.

**interlocking directorate.** The relationship between two or more corporations who have directors or officers in common. 19 Am J2d Corp § 1307.

**interlocking directors.** Directors common to the boards of two or more corporations. 19 Am J2d Corp § 1307.

**interlocutio.** Same as **imparlance**.

**interlocution.** The making of an interlocutory application or the rendition of an interlocutory decree or judgment during the pendency of an action or suit.

**interlocutor.** A judgment, order, or decree of a court.

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**interlocutory.** Not decisive of the cause but determining an intervening matter relating to the cause. Mora v Sun Mut. Ins. Co. (NY) 13 Abb Pr 304, 307. Intermediate.

**interlocutory accounting.** See **intermediate accounting**.

**interlocutory application.** A motion made during the progress of a case invoking provisional or interlocutory relief rather than a final judgment or decree. An application for an order by way of getting the case in such shape that in the end it may be properly heard and finally adjudicated. 27 Am J2d Eq § 235.

**interlocutory award.** An award made by arbitrators, not final in character because of incompleteness or other cause. Jones v Jones, 229 Ky 71, 16 SW2d 503.

**interlocutory costs.** Costs or disbursements on an intermediate motion or proceeding. Cardoff v Cardoff, 152 Minn 399, 189 NW 124. Costs allowable, taxable, and payable during the progress of a case. Goodyear v Sawyer (CC Tenn) 17 F 2, 6.

**interlocutory decision.** See **interlocutory; interlocutory judgment**.

**interlocutory decree.** A decree intended, not as a final adjudication, but as a determination made for the purpose of presenting the case in such form that it may, in the end, be heard on the merits and finally adjudicated. 27 Am J2d Eq § 235. The determination of a matter preliminary to trial or hearing for the rendition of a final decree. *Comans v Tapley*, 101 Miss 203, 57 So 567. A decree of divorce, that is, a decree which determines that a party is entitled to a divorce, such decree not to be final until after the expiration of the period of time prescribed by the statute. 24 Am J2d Div & S § 427.

See **interlocutory judgment**.

**interlocutory divorce.** See **interlocutory decree**.

**interlocutory hearing.** Any hearing for the purpose, not of an ultimate determination and final adjudication, but to obtain a presentation of the case in such form that it may, in the end, be properly heard and adjudicated finally on the merits. 27 Am J2d Eq § 235.

**interlocutory injunction.** A provisional or temporary injunction. 28 Am J Rev ed Inj § 12.

See **temporary injunction**.

**interlocutory judgment.** An intermediate judgment, a judgment which lacks finality. *United States v Howe* (CA2 Vt) 280 F 815, 23 ALR 531, cert den 259 US 587, 66 L Ed 1077, 42 S Ct 590. A judgment which "speaks between", that is does not speak the last word which the court may be required to speak in the case. *Keffer v Keffer*, 307 Ky 831, 212 SW2d 314. A judgment rendered in the middle of a cause upon some plea, proceeding, or default, which is only intermediate and does not finally determine or complete the suit. *Jacoby v Carrollton Federal Sav. & Loan Asso.* (Ky) 246 SW2d 1000. A judgment which is made before a final decision, for the purpose of ascertaining a matter of law or fact preparatory to a final judgment, or which determines some preliminary or subordinate point or plea, or settles some step, question, or default arising in the progress of the case, but does not adjudicate the ultimate rights of the parties or finally put the case out of court. 30A Am J Rev ed Judgm § 121.

A judgment on the merits defining and settling the rights of the parties is not rendered interlocutory by the fact that further orders may be necessary to carry into effect the rights settled by the judgment. 30A Am J Rev ed Judgm § 122.

See **interlocutory decree**.

**interlocutory judgment or decree of divorce.** A judgment or decree which determines that a party is entitled to an absolute divorce, such decree not to be final until after the expiration of the period of time prescribed by the statute. 24 Am J2d Div & S § 427.

**interlocutory motion.** See **interlocutory application**.

**interlocutory order.** An order rendered in an action or proceeding by way of provisional relief or upon a motion or application made during the course of the action or proceeding by way of determining the manner or form in which the case shall be presented for a final trial or hearing and an adjudication on the merits; not in itself an adjudication on the merits. *Re Blalock*, 233 NC 493, 64 SE2d 848, 25 ALR2d 818; *People v Priori*, 163 NY 99, 57 NE 85, 87; *Mackowain v Gulf Oil Corp.* 369 Pa 581, 87 A2d 314, 37 ALR2d 584.

See **interlocutory decree; interlocutory judgment**.

**interloper.** A trader operating without the license required by law. A party who takes an appeal or participates in an appeal taken by others who has no financial interest or other right which could be affected either adversely or favorably by the outcome of the litigation. *Re Bush's Trust*, 249 Minn 51, 82 NW2d 221.

**interlude.** An intervening event. A short dramatic piece, generally accompanied with music, usually represented or performed between the acts of longer performances. *Society for Reformation of Juvenile Delinquents v Diers* (NY) 60 Barb 152, 156.

**intermarriage.** The act of marrying. *People v Bord*, 243 NY 595, 596, 154-NE 620.

**intermarry.** To enter into a marriage.

**intermeddler.** One who stirs up litigation.

A person who officiously intrudes into a business to which he has no right.

The distinction between an intermeddler and a trespasser is not in any case very great. *Vassor v Atlantic Coast Line Railroad Co.* 142 NC 68, 950, 954, 54 SE 849.

**intermeddling.** A form of maintenance. Anno: 139 ALR 650.

See **intermeddler**.

**intermediary.** A go-between. One through whom a transaction is performed for another, for example, a person paying the rent of another with funds provided by the latter. 3 Am J2d Agency § 22.

**intermediary bank.** A bank which receives a collection from another bank and forwards it to a third bank for collection. Any bank to which an item is transferred in course of collection except the depositary or payor bank. UCC § 4-105(c).

**intermediate.** Occurring between two events. Interlocutory; intervening.

See **interlocutory**.

**intermediate accounting.** An accounting by a fiduciary at intervals between the filing of the inventory of the estate and the final accounting. 54 Am J1st Trusts § 511.

**intermediate administrative appeal.** An appeal from an administrative order to an officer on an inter-

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mediate level, a subsequent appeal to the head of lands of one's neighbor. *Eaton v Boston*, Concord the department or agency being available. 2 Am J2d Admin L § 540.

**intermediate appellate court.** Same as **intermediate court of appeal**.

**intermediate carrier.** One of three or more connecting carriers, who is neither the initial nor the terminal carrier. 14 Am J2d Car § 662.

**intermediate costs.** Same as **interlocutory costs**.

**intermediate court of appeal.** The lower court of a two-level appellate system; a court whose decision is subject to review by a higher appellate court. 4 Am J2d A & E § 11.

**intermediate estate.** An estate intervening the interest giving a right of present possession and the remote future interest, the effect of which is to prevent a merger of such present and future interests to create a fee simple. 28 Am J2d Est § 374.

**intermediate hearing.** See **interlocutory hearing**.

**intermediate injunction.** See **interlocutory injunction**.



**intermediate interest.** An interest in real estate so limited as to be between a life estate and an ultimate interest by way of remainder. *McCreary v Coggeshall*, 74 SC 42, 53 SE 978.

See **intermediate estate**.

**intermediate judgment.** See **interlocutory judgment**.

**intermediate landing field.** See **landing area**.

**intermediate lien.** See **intervening lien**.

**intermediate order.** See **interlocutory order**.

**intermediate point.** A place along the route of a shipment of goods between the place of shipment and the place where the shipment is to be delivered according to the terms of the contract of carriage. 13 Am J2d Car § 393.

**intermediate port.** A port between the sailing port and the port of termination of a voyage. 29 Am J Rev ed Ins § 332.

**intermediate rate.** A freight rate established expressly for a shipment between designated places, such as Chicago and Omaha. 13 Am J2d Car § 119.

**intermediate witness.** A witness who testifies to a fact on the strength of other testimony, and not of his own knowledge.

**intermediator.** One who settles or attempts to settle a dispute or controversy between others.

See **arbitrator**.

**interment.** See **burial**.

**intermingling.** For the purpose of the application of the doctrine of confusion of goods, a wilful and tortious mixture and confusion of goods by the owner with the goods of another so that they are indistinguishable and not susceptible of division according to the rights of each owner. 1 Am J2d Access § 15.

See **commingling of funds; commingling of goods**.

**inter minora crimina.** Among the minor crimes.

**in terminis terminantibus.** In determinate or determining terms; in express terms.

**intermittent easement.** An easement which is only used occasionally, or that is used or usable only at times; such as a right of occasionally flooding the lands of one's neighbor. *Eaton v Boston, Concord & Montreal Railroad*, 51 NH 504.

**intermittent injury.** The opposite of constant and continuous injury; temporary, depending on future conditions which may or may not arise. *Harvey v Mason City & Fort Dodge R. Co.* 129 Iowa 465, 105 NW 958.

**intermittent stream.** Same as **intermittent watercourse**.

**intermittent watercourse.** A watercourse, which although dry at times, has a well-defined and substantial existence; a watercourse with a usual or frequent flow which occurs regularly at certain seasons, and upon which dependence may be placed. 56 Am J1st Wat § 9. A stream in which the flow of water is discontinuous. 56 Am J1st Wat § 9.

**intern.** Verb: (in-tèrn). To apprehend, restrain, and detain an enemy alien. To confine prisoners of war in the interior of the country. To hold a person as a political prisoner. On the part of a neutral, to detain ships, sailors, soldiers, or property of a belligerent. Noun: (in'tèrn). A physician, usually one in the first year after graduation from medical college, who serves in a hospital in a professional capacity, assisting the physicians on the staff and attending upon patients in the hospital under the direction of their physicians or members of the hospital staff.

See **interned alien; internment.**

**internal administration.** Public administration on the institutional side, that is, as a going concern, including the legal structure or organization of administration, the legal aspects of its institutional activities, and the legal questions involved in overall management of such activities. 1 Am J2d Admin L§5.

**internal affairs of corporation.** Of private corporation: –transactions and relations which affect only the corporation and the stockholders as between themselves. *Edwards v Schillinger*, 245 Ill 231, 91 NE 1048. Something which concerns one solely in his capacity as a member of a corporation, whether as incorporator, stockholder, director, president, or other officer, and is the act of the corporation, whether acting in stockholders' meeting or through its agents, the board of directors. 23 Am J2d For Corp § 410. Of municipal corporation:—such business as a municipal corporation of like character is normally required to transact in order to effectuate the purpose of its charter, such as providing a police force, a jail, buildings for offices, etc. *Lewis v Pima County*, 155 US 54, 39 L Ed 67, 15 S Ct 22.

**internal commerce.** Commerce which is completely internal within a state of the Union, which is carried on between man and man in a state, or between different parts of the same state, and which does not extend to, or affect other states. *North River Steamboat Co. v Livingston (NY)* 3 Cow 713, 731.

**internal improvement.** A highway, toll road, canal, or other public improvement. 38 Am J1st Mun Corp § 559.

See **works of internal improvement.**

**internal medicine.** A branch of the practice of medicine. Treatment of diseases of the internal organs.

**internal revenue.** Revenues of the federal government. *California ex rel. McColgan v Bruce (CA9 Nev)* 129 F2d 421, 147 ALR 782.

**Internal Revenue Bureau.** An older terminology for

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what is now known as the "Internal Revenue Service."

**Internal Revenue Code.** Title 26 of the United States Code, inclusive of sections on income taxes, estate taxes, gift taxes, excises on alcohol and tobacco, and various other excises, together with provisions on the administration of such tax laws and the procedure to be followed.

**internal revenue law.** See **Internal Revenue Code; revenue law.**

**internal revenue officers.** See **Internal Revenue Service; revenue officers.**

**Internal Revenue Service.** The organization which administers the Internal Revenue Code, headed by the Commissioner of Internal Revenue and embracing a national office in Washington, D. C. and a field organization of revenue regions, each headed by a regional commissioner, and internal revenue districts, each headed by a district director. 34 Am J2d Fed Tax ¶ 9260.

**internal revenue stamps.** See **revenue stamps.**

**internal revenue tax.** An exaction for the support of the federal government; a contribution imposed on individuals by the government for its services. *Bailey v Drexel Furniture Co.* 259 US 20, 66 L Ed 817, 42 S Ct 449, 21 ALR 1432. More narrowly defined as federal taxes with the exception of customs duties. *Leeb v United States* (DC NY) 16 F2d 937.

**Internal Security Act.** Legislation intended to protect the government and the people against subversive activities tending to the overthrow of the government.

**international.** A characterization in a general manner of business or transactions between nations or between persons of different nations. *Koehler v Sanders*, 122 NY 65, 25 NE 235.

See **public.**

**international agreement.** A treaty between nations. A contract in which nations are the contracting parties.

**international airport of entry.** An airport designated as an international airport of entry for purpose of collecting customs duties. 21 Am J2d Cust D § 60.

**international bank.** A bank which engages in business transactions in foreign countries. 10 Am J2d Banks § 835.

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

**international commerce.** See **foreign commerce.**

**International Co-operation Administration.** A federal agency in the Department of State.

**international copyright.** A copyright which by force of international agreement is extended, in reference to the protection granted an author, beyond the territorial limits of the jurisdiction in which it was obtained. 18 Am J2d Copyr § 76.

**International Copyright Act.** An English statute growing out of the Berne Convention of 1887.

**International Court of Justice.** The principal judicial organ of the United Nations, established by Ch. XIV of the United Nations Charter. Am J2d Desk Book Document 16.

**international courts.** The international court of arbitration, known as the Hague Tribunal, established by the International Peace Conference in 1899; the Permanent Court of International Justice, established under the auspices of the League of Nations in 1920, which was the successor of the Hague Tribunal; and the International Court of Justice established as the judicial branch of the United Nations Organization, which is the successor to the Permanent Court of International Justice. 30 Am J Rev ed Internat L § 54.

**international extradition.** The surrender by one nation of an individual accused or convicted of an offense outside of the territory of the former and within the territorial jurisdiction of the latter, which, being competent to try and to punish him, demands the surrender. 31 Am J2d Extrad § 1.

**international labor union.** See **international union.**

**international law.** The rules and principles which govern the relations and dealings of nations with each other. *New Jersey v Delaware*, 291 US 361, 78 L Ed 847, 54 S Ct 407. The usage of all civilized nations. *United States v Arre Don Do (US)* 6 Pet 691, 8 L Ed 547.

International law in its widest and most comprehensive sense includes not only questions of right between nations, governed by what has been appropriately called the law of nations, but also questions arising under what is generally called private international law, or the conflict of laws, and concerning the rights of persons within the territory and dominion of one nation, by reason of acts, private or public, done within the dominion of another nation. Such was the force accorded the term "jus gentium" by the Roman juris-consults, but today private international law is deemed quite separate and distinct from the law of nations. 30 Am J Rev ed Internat L § 1.

See **private international law; public international law.**

**International Monetary Fund.** A fund established by Articles of Agreement adopted by a large number of nations at the Bretton Woods Conference in 1944, constituting in gold and national currencies the largest source of quickly available international credit.

**International Nautical Mile.** See **nautical mile.**

**International Organization Immunities Act.** A federal statute pertaining to the status of international organizations in reference to their capacity as parties. 22 USC § 288a.

**International Peace Conference.** A conference held in 1899, to which the leading nations of the world sent representatives, best remembered for its establishment of the international court of arbitration, known as the Hague Tribunal. 30 Am J Rev ed Internat L § 54.

**international public law.** The law which governs nations in their dealings and relations with one another. 30 Am J Rev ed Internat L § 1.

**International Refugee Organization.** An organization functioning under the United Nations Charter. *International Refugee Organization v Republic S.S. Corp.* (CA4) 189 F2d 858.

**International Rules for Navigation at Sea.** Federal statutes applying generally to all public and private vessels of the United States, also referred to as Regulations for Preventing Collisions at Sea. 33 USC §§ 143-147(d). Substantially, a code of navigation law, similar to that adopted by the leading maritime nations. 48 Am J1st Ship § 245.

**International Rules to Prevent Collisions.** Same as **International Rules for Navigation at Sea.**

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**international sight draft.** A sight draft drawn in a foreign country against a drawee bank of this country. 10 Am J2d Banks § 494.

**international union.** A labor union whose organization and activities transcend the territorial limits of the country. A union of nations; the United Nations.

**interne.** Same as **intern.**

**interned alien.** An enemy alien confined pursuant to an order issued by the President; for the purposes of a writ of habeas corpus, confined as a prisoner of war. 56 Am J1st War § 68. A status which does not prevent the enforcement of contract rights or the right of the alien to sue in the courts of the country in which he is interned. 56 Am J1st War § 141.

**internist.** One qualified as a physician who specializes in internal medicine.

**internment.** The detention of a resident enemy alien during the existence of a declared war between his country and the United States. *Johnson v Eisentrager*, 339 US 763, 94 L Ed 1255, 70 S Ct 936. The apprehension, restraint, and removal of an enemy alien to a designated place pursuant to an order by the President. 56 Am J1st War §§ 67, 68. The confinement of prisoners of war in the interior of a country. The act of a neutral nation in detaining ships, sailors, soldiers or property of a belligerent.

**inter nos.** Between ourselves.

**internuncio.** A representative of the pope of Rome at a minor court.

**internuncius.** A messenger; a joint agent acting between two parties.

**inter partes.** Between the parties.

See **deed inter partes; instrument inter partes.**

**interpellation.** A citation to appear before a court; a summons.

**interplea.** A proceeding by an adverse claimant, somewhat in the nature of an action in replevin, wherein all of his rights in property attached may be determined. *Farmers State Bank v Hess*, 138 Okla 190, 280 P 305, 66 ALR 894.

See **interpleader.**

**interplead.** To interpose or file an interpleader in a pending suit.

**interpleader.** A remedy, equitable in origin, devised and exercised on behalf of one in possession of property as a disinterested stakeholder, or obligated for the payment of a debt or the performance of a legal duty, to prevent loss or embarrassment to him from separate suits by rival claimants seeking to cover the same property from him or to enforce against him the same debt or obligation, the efficacy of the remedy lying in its function of requiring the rival claimants to litigate their demands without embroiling the stakeholder or debtor in the controversy. 30 Am J Rev ed Interpl § 3.

See **bill in the nature of interpleader.**

**Interpleader Act.** A statute which, as adopted in 1917 and subsequently amended, gives to the federal courts original jurisdiction of bills of interpleader and of bills in the nature of interpleader. 30 Am J Rev ed Interpl § 19.

**interpolation.** Adding words to an instrument or manuscript; a method of altering an instrument. 4 Am J2d Alt Inst § 36. Reading words and clauses into a contract in the construction of the contract. 29 Am J Rev ed Ins § 253.

See **interlineation.**

**interposing a defense.** To plead a defense in an answer or to insist upon it at any stage of the action. *Rosa v Butterfield*, 33 NY 665, 667.

**interposition.** Intervention. In a distinct sense, a fully discredited and disavowed concept that the United States is a compact of states, any one of which may interpose its sovereignty against the enforcement within its orders of any decision of the Supreme Court or Act of Congress, irrespective of the fact that the constitutionality of the act has been established by a decision of the Supreme Court, and that, a state having so acted, the law or decision is not enforceable in the interposing state until approved by an amendment to the Constitution of the United States. *Bush v Orleans Parish School Board (DC La)* 188 F Supp 916, affd per curiam op 365 US 569, 5 L Ed 2d 806, 81 S Ct 754.

See **intervening cause; intervention.**

**inter praesentes.** Among or between persons present.

**interpret.** To construe; to explain; to expound; to translate from a foreign language.

**Interpretare et concordare leges legibus est optimus interpretandi modus.** To interpret and reconcile laws with laws is the best manner of explaining them or construing them.

**Interpretatio chartarum benigne facienda est, ut res magis valeat quam pereat.** The construction of deeds or charters should be liberal in order that the transaction may be effective rather than impotent.

**Interpretatio chartarum benigne facienda est, ut res magis valeat quam pereat quando res non valet ut ago valeat quantum valere potest.** The construction of instruments should be liberal, that the transaction may be effective rather than impotent when the transaction is not valid as I do it, let it have as much validity as it can have. *Bond v Bunting*, 78 Pa St 210, 219.

**Interpretatio fiends est ut res magis valeat quam pereat.** Construction should be such that the transaction may be effective rather than perish.

**interpretation.** A translation. The art of finding the true sense of any form of words or symbols. *Bloomer v Todd*, 3 Wash Terr 599, 19 P 135.

The term is not synonymous with "construction," the latter meaning the determination, not of the sense of the words or symbols, but of the legal meaning of the entire contract. 17 Am J2d Contr § 240.

See **rational interpretation; restrictive interpretation.**

**interpretation clause.** A clause contained in many statutes which governs the construction of the statute, or which defines one or more terms of the statute.

**interpretation test.** A test given to prospective voters, involving the interpretation of any section of

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the federal or state constitution. 25 Am J2d Elect § 89.

**Interpretatio talis in ambiguis semper fienda est ut evitetur inconueniens et absurdum.** Such construction of ambiguous expressions should be made that inconvenience and absurdity shall be avoided.

**interpretative regulation.** A regulation by an administrative body purporting to interpret a statute of doubtful meaning. A regulation issued as a Treasury Decision, designed to interpret the doubtful meaning of a tax statute. Anno: 153 ALR 1191.

**interpreter.** One who interprets, particularly one who interprets words written or spoken in a foreign language. A person appointed by the court to interpret the testimony of a witness who speaks a foreign tongue because he does not understand and speak the English language. 53 Am J1st Trial § 29. A person employed in the taking of a deposition to translate into English for the benefit of the reporter questions and answers given in a foreign language. 23 Am J2d Dep § 51.

**interpretive regulation.** Same as **interpretative regulation.**

**inter quatuor parietes.** Within the four walls.

**interracial marriage.** A marriage between persons of different races.

See **miscegenation**.

**interregnum.** The interval of time between the death of an hereditary sovereign and the beginning of the reign of his successor.

Theoretically, there can be no interregnum in England because upon the death of the king, the right of the crown vests instantly in his heir, whence the saying, "The king is dead. Long live the king." See 1 Bl Comm 196.

The eleven-year period from 1649 to 1660, between the execution of Charles I and the reign of his son, Charles II; that is, the period of the commonwealth under Cromwell, is often referred to as "The Interregnum," but Blackstone refers to that unpleasantness as "the rebellion" which "broke out" in the reign of Charles I, and, following "the trial and murder of their sovereign" (Charles I), continued into the reign of Charles II until his "restoration." That is, Blackstone does not admit any break in the royal succession. See 4 Bl Comm 437.

**interrogating.** Propounding questions; questioning, especially, a witness, a prospective witness, or one suspected of the commission of a crime.

**interrogating part of bill in equity.** A term familiar in discussions of pristine equity pleading. The part of a bill in equity following the general jurisdiction clause and generally comprising two features:-the general interrogatory and the special interrogatories.

The general interrogatory calls on the defendant to make full, true and perfect answer to each and every allegation of the bill, or, what is the same in effect, it prays the court to require the defendant to appear in court and answer those allegations. The special interrogatories constitute the interrogating part of the bill as more generally understood and are properly put in series very much as the interrogatories for the taking of a deposition, being consecutively numbered for reference. 27 Am J2d Eq § 181.

**interrogatories.** Questions addressed to a person, especially a witness. Questions propounded in writing or orally in obtaining a deposition. 23 Am J2d Dep § 1. Questions propounded in obtaining a discovery. Questions submitted in writing by the plaintiff for answer by a garnishee, constituting, in effect, a form of discovery of assets of the defendant in the hands of the garnishee. 6 Am J2d Attach § 346. Questions submitted by one party to another in a case in admiralty by way of obtaining a discovery. 2 Am J2d Adm § 140. Questions submitted to the jury upon request for special verdict or' special findings. 53 Am J1st Trial §§ 1063 et seq. Preliminary questions, propounded to a person called as a witness, for the purpose of determining his capacity, particularly in reference to a witness who is obviously a minor or mentally deficient. *Den v Vancleve*, 5 NJL 695, 765.

See **cross interrogatories; special interrogatories**.

**in terrorem.** By way of warning or intimidation. Tending to inspire fear or dread, for example, the punishment for crime or contempt. *State v Shepherd*, 177 Mo 205, 228, 76 SW 79. A condition subsequent in a gift or devise, void as in terrorem, in itself or for want of a limitation over, the absence of a limitation over indicating that the primary purpose was to intimidate. 28 Am J2d Est § 145. A condition in restraint of marriage, appearing in a deed or gift of property, imposed with the view of preventing marriage rather than in furtherance of a legitimate purpose, especially where there is no gift over. 35 Am J1st Mar §§ 247, 266.

**in terrorem populi.** To the terror of the populace. *Commonwealth v Runnels*, (10 Tyng) 10 Mass 518, 520.

**interruptio.** (Civil law.) Same as **interruption**.

**Interruptio multiplex non tollit praescriptionem semel obtentam.** Repeated interruption will not defeat a prescription after it has been acquired.

**interruption-of-business insurance.** See **business interruption insurance.**

**interruption of possession.** An interruption of the continuity of the possession of an adverse claimant; any substantial interruption in the possession of an adverse claimant. 3 Am J2d Adv P § 68.

The effect is to restore constructive possession to the owner. 3 Am J2d Adv P § 54.

**interruption of prescription.** Any unambiguous act of the owner of land evincing his intention to exclude others from the interrupted use of the right claimed, thereby preventing the acquisition of an easement in the land by prescription. *Red Star Yeast & Products Co. v Merchandising Corp.* 4 Wis 2d 327, 90 NW2d 777. Under the civil law, an entry by the owner into and upon immovables or his taking away movables. *Innerarity v Heirs of Mims*, 1 Ala 660, 674.

**interruption of statute.** The suspension of the running of a statute of limitations. 34 Am J1st Lim Ac §§ 186 et seq.

See **suspension of statute of limitations.**

**inter rusticos.** Among or between rustics; among or between persons who are illiterate.

**inter se.** Among or between themselves.

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**intersecting lines.** One railroad line connecting with or crossing over another railroad line. 44 Am J1st RR § 283.

**intersecting streets or highways.** Streets or highways meeting with one another. 7 Am J2d Auto § 203.

Some authorities include the meeting of one way with another even though one of the streets stops at and does not cross the other; but in a few cases it has been held, in view of the language of the particular statute or ordinance, that the two ways must actually cross each other in order to be intersecting. 7 Am J2d Auto § 203.

The intersection of a public thoroughfare with a private way does not come within the terms of a statute which, by language or definition, relates to the intersection of "highways," or which defines the intersecting way as any "public highway, street, avenue, road, alley, park, or parkway. Anno: 50 ALR 204; 7 Am J2d Auto § 204.

**intersecting veins.** Veins of minerals which cross one another. 36 Am J1st Min & M § 112.

**intersecting way.** See **intersecting streets or highways.**

**intersection.** The space of intersecting streets or roadways common to both the ways as determined by a continuation of the curb or similar lines. *Neuman v Apter*, 95 Conn 695, 112 A 350, 21 ALR 970; *Stewart v Olson*, 188 Wis 487, 206 NW 909, 44 ALR 1292. The point at which railroad lines intersect; the city or village in which railroad lines intersect.

See **intersecting lines; intersecting streets or highways.**

**inter se liability.** Liability as between themselves, such as liability as between the shareholders of a business trust. 13 Am J2d Bus Tr § 41.

**inter se rights.** Rights as between themselves, such as rights as between the shareholders in a business trust. 13 Am J2d Bus Tr § 41.

**inter sese.** Same as **inter se.**

**interspousal transfers.** Transfers of property between husband and wife.



**interstate commerce.** Literally, commerce between states. A practical rather than a technical legal conception, impossible of comprehensive definition, but having the distinguishing feature and indispensable element of importation into one state from another state. 15 Am J2d Cem § 3. A term comprehending all commercial intercourse between different states and all the component parts of that intercourse. 15 Am J2d Com § 3. As defined in the Federal Employers' Liability Act:—acts which shall in any way directly or closely and substantially affect commerce between the states. 45 U SC § 51. Interstate transportation or work so closely related thereto as to be practically a part of it. 35 Am J1st M & S § 442.

There is no single concept of interstate commerce which can be applied to every federal statute regulating commerce. *McLeod v Threlkeld*, 319 US 491, 87 L Ed 1538, 63 S Ct 1248.

See **commerce clause; engaged in interstate commerce.**

**Interstate Commerce Act.** A federal statute creating the Interstate Commerce Commission and providing for the regulation, supervision, and investigation of interstate carriers by the commission. 49 USC § 11.

**interstate commerce clause.** See **commerce clause.**

**Interstate Commerce Commission.** A body corporate, essentially an administrative board invested with administrative powers of supervision and investigation, although exercising quasi-judicial powers. 13 Am J2d Car § 33. A federal agency created in 1887 by the Interstate Commerce Act in order to bring into existence a body which, from its special character, would be best fitted to deal with interstate carriers and, among other things, to determine whether, upon the facts in a given case, there was an unjust discrimination against interstate commerce. *Florida v United States*, 292 US 1, 78 L Ed 1077, 54 S Ct 603.

**interstate extradition.** See **extradition.**

**interstate ferry.** A ferry operating between landing places in different states.

**interstate free pass.** A pass for free transportation of a passenger on a trip between states, forbidden by law, subject to certain exceptions, particularly drovers or caretakers of livestock in charge of a shipment. 14 Am J2d Car § 756.

**interstate highway.** A highway of a superior nature constructed with federal aid, intended to facilitate the movement of traffic between states.

**interstate surface water.** Water flowing over the surface of lands located in two states. *Caldwell v Gore*, 175 La 501, 143 So 387.

**interstate traffic.** Traffic that is moving from one state or territory into or through some other state or territory. *United States v Chicago Great Western Co.* (DC Iowa) 162 F 775.

See **interstate commerce.**

**interstate watercourse.** A watercourse which borders upon or passes through two or more states. 56 Am J1st Wat §§ 373 et seq.

**interterritorial.** Between one territory and another.

**interurban.** See **interurban railroad.**

**interurban bus.** A bus running between cities or other centers of population.

**interurban railroad.** Literally a railroad running between cities, but known more particularly as a railroad line of limited extent in length, making use of electric passenger cars quite similar to streetcars. 44 Am J1st RR § 7. A means of transportation which became widely established with the advent and extended use of electric passenger cars, but has since been almost completely replaced in the United States by busses. Partaking somewhat of the nature of an ordinary railroad and of a street railway, resembling the former when operated on its private right of way, outside the traveled portion of a public highway, and the latter when operating over a public street. 44 Am J1st RR § 7. More in the nature of a railroad than a street railway. Louisville & N. R. Co. v Anchors, 114 Ala 492, 227 So 279.

See **commercial railroad**.

**interurban railway passenger traffic.** The transportation of passengers between cities without rendering streetcar service in any city. Milwaukee v Milwaukee Electric R. & Light Co. 173 Wis 400, 180 NW 339, 181 NW 821, 13 ALR 802.

**interval.** A space of time or distance.

See **lucid interval**.

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**intervallo.** See **ex intervallo**.

**intervene.** To come between. To become a party to an action by way of intervention.

See **intervention**.

**intervener.** One who intervenes. One who becomes a party to a suit by the proceeding of intervention. 39 Am J1st Parties § 55.

See **intervention**.

**intervening.** As a matter of designation of time;—intermediate; implying an exclusion of both first and last terminal days. Anno: 98 ALR2d 1369. Acquiring the status of a party to an action by way of intervention.

See **intervention**.

**intervening agency.** An act or omission which comes between cause and effect. Ahern v Oregon Tel. & Tel. Co. 24 Or 276, 33 P 403, 35 P 549.

See **intervening cause**.

**intervening cause.** A cause which supersedes a prior wrong as the proximate cause of an injury by breaking the sequence between the prior wrong and the injury. Mahoney v Beatman, 110 Conn 184, 146 A 762, 66 ALR 1121.

The test of the sufficiency of an intervening cause to defeat recovery for negligence is not to be found in the mere fact of its existence, but rather in its nature and the manner in which it affects the continuity of operation of the primary cause, or the connection between it and the injury. Sandel v State, 115 SC 168, 104 SE 567, 13 ALR 1268, ovrd on other grounds Sistine v State, 132 SC 241, 253, 128 SE 172.

See **efficient intervening cause**.

**intervening damages.** Damages resulting to an appellee from the delay caused by the appeal. Peasely v Buckminster (Vt) 2 Tyler 264, 267.

**intervening efficient cause.** See **efficient intervening cause**.

**intervening force.** See **intervening cause**.

**intervening human agency.** The instrumentality of man. The antithesis of act of God. *Cachick v United States* (DC Ill) 161 F Supp 15.

**intervening lien.** A lien which, in point of time or of record comes between other liens or other conveyances or transfers of the same property.

**intervention.** The act or fact of intervening-any interference that may affect the interest of others. In legal terminology, the proceeding by which one not originally a party to an action is permitted, on his own application, to appear therein and join one of the original parties in maintaining the action or defense, or to assert a claim or defense against some or all of the parties to the action as originally instituted. 39 Am J1st Parties § 55. A proceeding within an attachment or garnishment proceeding wherein third party claimants assert their rights. 6 Am J2d Attach § 577. An appearance by a consul on behalf of his nation interested in the estate of a decedent. Anno: 157 ALR 108. A proceeding in admiralty by a third person to establish a claim to property or the proceeds of property brought into court in a suit in admiralty, where the suit is in rem, or to establish the right or rights of the third person in a proceeding for limitation of a shipowner's liability. 2 Am J2d Adm § 184.

**intervention on appeal.** A practice generally refused after the case has reached the appellate court, or after the time for appeal has expired, parties being brought in to an appeal by order of the appellate court only where the effective administration of justice demands it. *Mullaney v Anderson*, 342 US 415, 96 L Ed 458, 72 S Ct 428.

**intervertebral discs.** The structure of the spine. 22 Am J2d Damag § 374.

**interview.** The method of obtaining information by conversation. An informal method of obtaining answers to interrogatories propounded in obtaining a discovery. 23 Am J2d Dep § 289.

**inter virum et uxorem.** Between husband and wife.

**inter vivos.** Between living persons.

See **gift inter vivos.**

**inter vivos gift.** See **gift inter vivos.**

**inter vivos instrument.** An instrument taking effect during the life of the grantor, mortgagor, or lienee.

**inter vivos transfer.** A transfer effective during the life of the transferor.

**inter vivos trust.** Same as **trust inter vivos.**

**intestabilis.** Disqualified from being a witness; disqualified to make a will; dishonored; infamous.

**intestable.** A person who is not qualified to make a will; as, a lunatic.

**intestacy.** The status or condition of a person who dies without leaving a valid and operative will. *Re Noble*, 194 Iowa 733, 190 NW 511, 26 ALR 86. More precisely, the status of the estate or property of a decedent who dies without leaving a valid or operative will. *Murdoch v Murdoch*, 81 Conn 681, 72 A 290.

See **dying intestate; partial intestacy.**

**In testamentis et ultimis voluntatibus tractatur de probanda voluntate defuncti post ejus mortem.** In the case of testaments and last wills matters shall be administered according to the proven wishes of the deceased, after his death. *Panaud v Jones*, 1 Cal 488, 505.

**In testamentis plenius testatoris intentionem scrutamur.** In wills, we should search thoroughly for the intention of the testator.

**In testamentis plenius voluntates testantium interpretantur.** In wills, the intentions of the testators should be fully determined.

**In testamentis ratio tacita non debet considerari, sed verba solum spectari debent; adeo per divinationem mentis a verbis recedere durum est.** In wills a secret intention ought not to be considered, but only the words ought to be regarded; it is so difficult to recede from the words by guessing at the intention.

**intestate.** The characterization of a person, or of the estate or property of a person, who dies in the status or condition of intestacy, that is, without leaving a valid and operative will. *Re Noble*, 194 Iowa 733, 190 NW 511, 26 ALR 86. One who dies without leaving a valid and operative will. *Kohny v Dunbar*, 21 Idaho 258, 121 P 544.

See **dying intestate; intestacy; partial intestacy.**

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**intestate estate.** The estate of a person who dies without leaving a valid and operative will.

See **partial intestacy.**

**intestate laws.** The body of statutes which provide and prescribe the devolution of estates of persons who die without disposing of their estates by last will or testament. *Guinness v State*, 40 Wash 2d 677, 246 P2d 433.

**intestate property.** See **intestate estate; partial intestacy.**

**intestate succession.** Succession or inheritance from a person who dies without leaving a valid or operative will. Not a natural or inherent right. 23 Am J2d Desc&D§11.

**intestato.** See **ab intestato.**

**intestatus.** (Civil law.) Intestate; without leaving a will; an intestate.

**Intestatus decedit qui aut omnino testamentum non fecit; aut non jure fecit; aut id quod fecerat ruptum irritumve factum est; aut nemo ex eo haeres exstitit.** A person dies intestate who either made no will, or made one not according to law, or the one which he made has been broken or rendered ineffectual, or who is one whom no devisee survives.

**in testimonium.** In testimony; in witness whereof.

**in the air.** Literally, an operation off the ground, such as flying an aircraft. Figuratively, without basis or foundation.

Proof of negligence in the air, so to speak, will not do. *Martin v Herzog*, 228 NY 164, 126 NE 814.

**in the alternative.** One in the place of another, not the two taken together. *Montgomery Ward & Co. v Duncan*, 311 US 243, 85 L Ed 147, 61 S Ct 189.

See **alternative.**

**in the bosom of the country.** An expression used in relation to the situs of articles of commerce.

Such articles are in the "bosom of the country" before they become articles of foreign commerce or commerce between the states of the Union. *Turner v Maryland* (US) 17 Otto 38, 27 L Ed 370, 2 S Ct 44.

**in the bosom of the court.** See **breast of the court.**

**in the cepit.** See **replevin in the cepit.**

**in the course of the employment.** A phrase sometimes understood to mean the same as within the scope of the employment, at other times construed to mean during the period of employment, such variation, of course, being most confusing where it is sought to impose liability on the employer for an injury occurring to a third person by the act of an employee. *Penas v Chicago, Milwaukee & St. Paul Railway Co.* 112 Minn 203, 127 NW 926. While engaged in the service of the employer; not synonymous with the phrase "during the period covered by his employment." *Hickson v W. W. Walker Co.* 110 Conn 604, 149 A 400, 68 ALR 1044; *Slater v Advance Thresher Co.* 97 Minn 305, 107 NW 133. Engaged in that activity which he was employed to pursue; not engaged in a pursuit of his own. *White v Eastern Mfg. Co.* 120 Me 62, 112 A 841, 16 ALR 1165, 1168; *Jackson v American Tel. & Tel. Co.* 139 NC 347, 51 SE 1015. Performing the work of the employer pursuant to the employer's directions. *Braen v Pefeifer Oil Transp. Co.* 361 US 129, 4 L Ed 2d 191, 80 S Ct 247. At work in the employer's service. *Cox v Kansas City Refining Co.* 108 Kan 320, 195 P 863, 19 ALR 90. Engaged in matters fairly incidental to the employment relationship. *Gage v Connecticut General Life Ins. Co.* (Mo App) 273 SW2d 761, 47 ALR2d 1234 (provision of group accident policy.) For the purposes of workmen's compensation:—within the period of employment, at a place where the employee reasonably may be in the performance of his duties, and while he is fulfilling those duties or engaged in doing something incidental thereto, or, as otherwise stated, engaged in the furtherance of the employer's business. 58 Am J1st Workm Comp § 212.

See **scope of employment.**

**in the custody of the law.** See **custody of the law.**

**in the debet and detinet.** See **debet et detinet.**

**in the detinuit.** In possession by virtue of a writ of replevin.

**in the employ.** Working for another whether as a menial, a mechanic, or a manager of the business. *Kay v General Cable Corp.* (CA3 NJ) 144 F2d 653.

**in the event.** A phrase setting up a condition. 11 Am J2d B & N § 141.

**in the nature of quo warranto.** See **information in the nature of quo warranto.**

**in the opinion of the agency.** A clause in a statute delegating powers to an administrative agency, the effect of which is to confer unwarranted policymaking power upon the agency. *State v Marana Plantations, Inc.* 75 Ariz 111, 252 P2d 87.

**in the ordinary course of business.** In the course of business of mercantile men generally, not those engaged in a particular trade. *Romeo v Martucci* 72 Conn 504, 45 A 1. A sale such as made in the regular course of business, not one such as will be made only a few times in the life of a merchant. *Sternberg v Rubenstein*, 305 NY 235, 112 NE2d 210, 36 ALR2d I 136. According to the usages and customs of commercial transactions. *Christensen v Farmers' Warehouse Asso.* 5 ND 438, 67 NW 300.

As to whether sales are made in "ordinary course of trade or business" within the meaning of the Federal income tax rules as to property deemed held primarily for sale to customers in ordinary course of trade or business, see Anno: 46 ALR2d 649.

**in the premises.** A familiar phrase used in a prayer for relief in equity, meaning on the case as made by the plaintiff, for example:-wherefore plaintiff demands [specific relief requested, such as foreclosure, injunction, etc.] and such other and further relief as he may be entitled to in the premises.

**in the presence.** See **in the presence of the testator; presence.**

**in the presence of the court.** See **presence of the court.**

**in the presence of the testator.** A signing of the will within the view of the testator, such view being uninterrupted and the testator conscious. A signing within the actual range of vision of the testator. 57 Am J1st Wills § 338.

It has been held that the words "in the presence of the testator," in a statute relating to the execution and attestation of wills, do not necessarily mean that the testator and the witnesses must be in the same room, or that he must have actual sight

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or inspection of the process of signing by the witnesses, but there is respectable authority to the contrary. Cook v Winchester, 81 Mich 581, 46 NW 106.

Due regard must be had to the circumstances of each particular case, as it is well settled by all the authorities that the statute does not require absolutely that the witnessing of the signing by the testator must be done in the actual sight of the testator, nor yet within the same room with him. If the witnesses sign within his hearing, knowledge, and understanding, and so near as not to be substantially away from him, they are considered to be in his presence. Re Will of Cunningham, 80 Minn 180, 83 NW 58.

**in the public domain.** See **public domain.**

**in the residence.** As the term appears in a statute giving a landlord a lien upon all property of the tenant situated "in the residence":-all property on the premises. 32 Am J1st L & T § 586.

**in the service of the ship.** See **service of the ship.**

**in the trial.** At the trial; during the trial; while the case is actually being tried. Carpenter v Winn, 221 US 533, 539, 55 L Ed 842, 845, 31 S Ct 683.

**in the vicinity.** See **vicinity.**

**in the within deed.** An indorsement of a deed which may have the effect of conveying the property described by the instrument. 23 Am J2d Deeds § 37.

**in this state.** A phrase embracing all territory within the geographical limits of the state. Collins v Yosemite Park & C. Co. 304 US 518, 82 L Ed 1502, 58 S Ct 1009.

**intimacy.** A friendly relationship. In another sense, an illicit, improper, and degrading relationship; an illicit sexual relationship. Collins v Dispatch Publishing Co. 152 Pa 187, 191.

**intimate.** Closely acquainted. In one sense, having illicit sexual relations. 33 Am J1st L & S § 39.

A man and woman not married to each other are said to have been intimate when it is intended to convey the meaning that they have indulged in sexual intercourse together. *Crosslands v Hamilton*, 128 Okla 213, 262 P 196, 198.

As applied to the relations between a man and a woman, the adjective does not necessarily import misconduct. To charge a woman with being intimate with a man does not of itself amount to a charge of unchastity, although the word "intimate" is capable of use in a defamatory sense, and if it is so used it is actionable per se in many jurisdictions. 33 Am J1st L & S § 39.

**intimation.** A hint or suggestion. A mere conclusion from something said-that something should have been stated. *Miller v Miller* (Pa) 2 Serg & R 266.

**intimidate.** To put one in fear. To cause a state of intimidation.

See **intimidation**.

**intimidation.** The act of putting another in fear or a state of timidity by means of a threat or declaration of an intention or determination to injure such person by the commission of an unlawful act. *Payne v Western & Atlantic Railroad Co.* 81 Tenn (13 Lea) 507. Not necessarily implying an overt act of violence, or even a direct threat of violence. *United Constr. Workers v New Burnside Veneer Co.* (Ky) 274 SW2d 787.

See **business compulsion; duress**.

**intimidation of voter.** Producing fear sufficient to deter a voter from the exercise of his free will, thereby affecting the integrity of an election, irrespective of the degree in which force is displayed. 26 Am J2d Elect § 286.

**intitle.** Same as **entitle**.

**into.** Toward and within.

There is no difference, so far as a lessor's covenant to repair is concerned, between entrances leading "to" the premises and entrances leading "into" it. *Renfro Drug Co. v Lewis* (Tex) 235 SW2d 609, 23 ALR2d 1114.

The prohibition of a federal statute against transporting intoxicating liquor in interstate commerce "into" any state or territory the law of which prohibits the manufacture and sale of intoxicating liquors for beverage purposes does not include the movement through a dry state as a mere incident of the transportation to another state, whether such transportation is by personal carriage or by common carrier, the word "into" referring to the state of destination, and not to the means by which that end is reached. *United States v Gudger*, 249 US 373, 63 L Ed 653, 39 S Ct 323.

**intol and uttol.** Tolls or duties which were levied on imports and exports.

**intolerable indignity.** An indignity amounting to a species of mental cruelty, thereby constituting a ground of divorce under some statutes. *Wirthman v Wirthman*, 225 Mo App 692, 39 SW2d 404.

**intolerable severity.** As a characterization of cruelty constituting a ground for divorce:—extreme cruelty. *Mathewson v Mathewson*, 81 Vt 173, 69 A 646.

**intolerance.** Bigotry; narrow-mindedness. An intrusion upon our traditional concept of religious liberty. *United States Nat. Bank v Snodgrass*, 202 Or 530, 275 P2d 860, 50 ALR2d 725.

**in totidem verbis.** In so many words; in just as many words.

**in toto.** In the whole; altogether; wholly.

**In toto et pars continetur.** In the whole a part is also contained, or embraced, or included.

**intoxicants.** Any substance which intoxicates.

See **intoxicating liquors.**

**intoxicated.** In common parlance, in which sense it is used in an application for life insurance, drunk or inebriated. Mutual Life Ins. Co. v Johnson, 64 Okla 222, 166 P 1074. In a state of intoxication. Within the meaning of a limitation of risk in a life or accident insurance policy:—a disturbance of mental or physical faculties substantially or materially impairing a sense of responsibility, arising from the use of an alcoholic beverage or a drug or drugs. Anno: 13 ALR2d 987, 999.

See **intoxicated condition; intoxication.**

**intoxicated condition.** Under the influence of intoxicating liquor. 7 Am J2d Auto § 257.

See **intoxication.**

**intoxicating bitters.** An alcoholic beverage. 30 Am J Rev ed Intox L § 16.

See **bitters.**

**intoxicating liquor.** A liquor intended for use as a beverage, or capable of being so used, which contains alcohol in such percent that it will produce intoxication when imbibed in quantities that practically may be drunk. 30 Am J Rev ed Intox L § 4.

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A liquor which contains alcohol capable of producing intoxication when taken into the stomach in such quantities as the stomach may reasonably contain. 30 Am J Rev ed Intox L § 4. Liquors defined by statute as "intoxicating," regardless of their alcoholic content or intoxicating quality. 30 Am J Rev ed Intox L § 6.

See **alcoholic beverage; alcoholic liquor; sale of intoxicating liquor.**

**intoxicating quality.** The distinctive characteristic of an intoxicating liquor, being that quality which renders a beverage such that when used it will produce intoxication to some extent. 30 Am J Rev ed Intox L § 5.

**intoxication.** An undue abnormal excitation of the passions or feelings, or the impairment of the capacity to think and act correctly and efficiently. 30 Am J Rev ed Intox L § 21. As a ground for cancellation of a contract, such an impairment of capacity as deprives a person of reason and renders him bereft of the power to understand the nature and effect of his act in the transaction. 29 Am J Rev ed Ins Per § 83. A state of inebriation or drunkenness. That state or condition of a person which inevitably follows from taking excessive quantities of an intoxicant. 30 Am J Rev ed Intox L § 21. To some persons, being under the influence of an intoxicant to such an extent as to render one helpless; to other persons, a person even only slightly under such influence. 30 Am J Rev ed Intox L § 21.

See **habitual drunkenness; involuntary intoxication.**

**intra.** Within; in the space of; within the bounds of.

**intra anni spatium.** Within the space of a year.

**in trade.** In commerce; in business.

As used in the Federal Income Tax Act that losses actually sustained during the year, incurred "in trade," shall be allowed as a deduction, the term means the trade or trades in which the person making the return is engaged; that is, in which he has invested money otherwise than for the purpose of being employed in isolated transactions, and to which he devotes at least a part of his time and attention. *Mente v Eisner* (CA2 NY) 266 F 161, 11 ALR 496.

See **payable in trade.**



**In traditionibus scriptorum, non quod dictum est, sed quod gestum est, inspicitur.** In the delivery of written instruments, not what was said, but what was done, is regarded.

**intra family.** Within the family, between the members of a family.

**intra fidem.** Within belief; credible.

**intra hospitium.** Within the precincts of the inn.

**in trajectu.** In passing over.

**intra luctus tempus.** Within the time of mourning.

**intra moenia.** Within the walls; pertaining to the household. See 1 Bl Comm 425.

**in transit.** Literally, in the course of passing from point to point. Technically, between delivery to the carrier and delivery to the consignee or one acting for the consignee. Anno: 80 ALR2d 448, 452. For the purpose of an insurance risk, periods of actual movement or periods of rest while property is being carried from one place to another with the intention to take it to a destination conceived in the mind, not the mere possession of something in the course of a casual wandering. Anno: 80 ALR2d 447.

The term includes not only the carriage of goods to their destination, but also their delivery there in accordance with the terms of the contract with the carrier. Anno: 7 ALR 1389.

See **in transitu.**

**in transitu.** In transit. A phrase familiar in the law of sales, meaning the period while the goods are in the possession of a carrier, whether by land, water, or air, until they are delivered into the possession of the consignee, whether or not the carrier has been designated by the buyer. 46 Am J1st Sales § 530.

See **in transit; stoppage in transitu.**

**intra parietes.** Inside the walls of the house; among friends.

**intra praesidia.** Same as **infra praesidia.**

**intra quatuor maria.** Inside or within the four seas; that is, in England.

**intrastate.** Wholly within the external boundaries of a single one of the United States.

**intrastate commerce.** Commerce within the limits of one state.

Substance, not form, controls in the determination of the character of the transaction; the courts look to practical considerations and the established course of business. *NLRB v Jones & L. Steel Corp.* 301 US 1, 81 L Ed 893, 57 S Ct 615, 108 ALR 1352.

**intra-urban.** Within the limits of a city.

**intra vires.** Within the powers; within the authority given by law.

See **ultra vires.**

**intrinsic danger.** See **inherent danger in work.**

**intrinsic fraud.** Fraud practiced in procuring a transaction. *Toledo Scale Co. v Computing Scale Co.* 261 US 399, 67 L Ed 719, 43 S Ct 458. In the trial of an action:—perjury, forgery, bribery of a witness, and other frauds which could have been relieved by the court in the action itself. *Caldwell v Taylor*, 218 Cal 471, 23 P2d 758, 88 ALR 1194. In reference to relief from a judgment: fraudulent acts pertaining to an issue involved in the original action, or fraudulent acts which were or could have been litigated in the original action. 30A Am J Rev ed Judgm §§ 657, 784.

**intrinsic value.** The true, inherent, and essential value of a thing, not depending upon accident, place, or person, but the same everywhere and to everyone. *Bank of North Carolina v Ford*, 27 NC (5 Ired L) 692, 698. Of corporate stock:—the amount which the assets behind the stock will bring at a sale fairly conducted. *Jackson Co. v Gardiner Invest. Co.* (CA1 NH) 217 F 350, affd on reh 220 F 297, app dismd 239 US 628, 60 L Ed 475, 36 S Ct 164.

**introduced evidence.** Evidence offered by a party on the trial of a case and admitted or received by the court. *Tuttle v Story County*, 56 Iowa 316, 9 NW 292.

**introduction.** A bringing in. A preliminary by way of explanation of what follows. In pristine equity

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practice, a distinct part of a bill in equity indicating the names of the parties and the capacity in which the plaintiff brings the suit if it is brought in the right of another. 27 Am J2d Eq § 180.

See **clandestine introduction**.

**intruder.** A person who commits an intrusion. A person entering upon premises without invitation, especially a person expressly prohibited from entering. One who usurps a public office, having neither title nor color of right. *Hamlin v Kassafer*, 178 SC 351, 183 SE 145, 114 ALR 1130. An entry by a stranger on lands after a particular estate of freehold in them is determined and before entry by the remainderman or reversioner. See 3 Bl Comm 169.

See **information for an intrusion; monstrans de droit; purpresture**.

**intrusion.** The act of an intruder.

See **intruder**.

**intrusione.** See **de intrusione**.

**intrust.** To transfer or deliver property to another to hold as trustee.

**in trust.** The status of property held by a trustee. A phrase in an instrument strongly indicative of the intent to create a trust rather than convey an absolute estate. Anno: 147 ALR 609, 611. A phrase generally inconsistent with the idea that the grant of an absolute estate was intended, but not conclusive in such respect. *Flynn v Palmer*, 270 Wis 43, 70 NW2d 231, 51 ALR2d 1000. A clause which, appearing in a will, strongly but not conclusively indicates the creation of a trust. 57 Am J1st Wills § 1323.

**in trust for any purpose.** Limited to technical or special trusts; not inclusive of a trust implied from the situation of the parties or the nature of the transaction. *Schaack v Reiter*, 372 Ill 328, 23 NE2d 714, 125 ALR1482.

**intuitu.** See **eo intuitu**.

**intuitu matrimonii.** In contemplation of marriage.

**intuitu mortis.** In contemplation of death.

**intuitus.** View; contemplation; consideration.

**in tuto.** In safety; safe; secure.

**inundation.** A flood.

**inure.** To accrue to the benefit of a person; to devolve upon a person. *Malachowski v Varro*, 76 Cal App 207, 244 P 936.

**inurement of title.** The benefit of the title of one for another, for example, the title of one cotenant benefitting another cotenant. 20 Am J2d Coten § 69. The passing of title to property from one person to another, without any writing or other formality than some act which thereafter estops the grantor from asserting title to the property as against his grantee. *Dickerson v Colgrove* (US) 10 Otto 578, 583, 25 L Ed 618, 620. The transfer of an after acquired title of the grantor to the grantee of a deed by operation of law. 23 Am J2d Deeds § 308.

**in utero matris.** In the womb of the mother.

See **unborn child**.

**Inutilis labor et sine fructu non est effectus legis.** Useless and fruitless labor is not the end of the law.

**in utroque jure.** In both laws.

**in vacation.** See **vacation of court**.

**in vacuo.** In space.

**invade.** To make an invasion; to assault.

**invadiare.** To pledge; to mortgage.

**invadiatio.** A pledge; a mortgage.

**invadiatus.** The principal debtor in a contract of pledge or suretyship; a person who has had pledges given for him.

**in vadio.** In gage; in pledge; by way of security.

See **estate in vadio**.

**invalid.** Adjective: Illegal, having no force or effect or efficacy; void; null. *State ex rel. MacKenzie v Casteel*, 110 Ind 174, 182. Noun: A sick person, especially one without hope of restoration to health.

**invalidated.** Rendered illegal or deprived of legal effect.

A provision in a fire insurance policy that a mortgagee's interest in the policy shall not be invalidated by any act of the owner, means that the interest of the mortgagee in the policy shall not be injuriously affected thereby. *Tarleton v De Veuve* (CA9 Cal) 11 F2d 290, 132 ALR 343.

**invalid chair.** wheelchair.

**invalidism.** A condition of chronic ill health, sometimes coinciding with mental incompetency, but by no means the equivalent of mental incompetency. *Groff v Stitzer*, 77 NJ Eq 260, 77 A 46.

**invalidity.** See **illegality**.

**invalid pension.** See **pension**.

**invasion.** An intrusion upon the property or rights of another. The entry of a hostile military force. The hostile entry of a public enemy. *Aetna Ins. Co. v Boon (US)* 5 Otto 117, 24 L Ed 395.

**invasion of corpus.** Taking from the principal of a trust estate when the income is insufficient for the payment of annuities to, or the defrayment of expenses of, the beneficiaries as provided by the indenture of trust. 4 Am J2d Annui § 18.

**invasion of privacy.** A violation of the right of privacy.

See **privacy**.

**invasion of province of jury.** The decision by the court of a question of fact within the province of the jury or interference by the court with the jury in attempting to control or determine the verdict to be rendered by them. 39 Am J1st Tr § 48.

**invecta et illata.** (Civil law.) Things which were carried and brought,-the goods of a tenant which he brought on the land and pledged to the landlord to secure his rent.

**inveigle.** To deceive for the purpose of accomplishing an evil purpose. *State v Lacoshus*, 96 NH 76, 70 A2d 203. To allure, incite, instigate, seduce, or entice into the doing of an improper act. *Mooney v State*, 8 Ala 328, 331.

**inveniendo.** Finding.

**Inveniens libellum famosum et non corrumpens punitur.** A person who finds a defamatory libel and does not destroy it, is punished.

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**invent.** To create. *Bliss Co. v United States*, 248 US 37, 63 L Ed 112, 39 S Ct 42. To think of something, especially a new device, and of a method of creating it, and to follow through with the creation of the thing.

**inventio.** (Civil law.) A finding of goods.

**invention.** A creation of something new. Within the meaning of the patent laws:-an operation of the intellect, a product of intuition, of something akin to genius, as distinguished from mere mechanical skill. 40 Am J1st Pat § 40. A word impossible of definition affording any substantial aid in determining whether a particular device involves an exercise of the inventive faculty or not. 40 Am J1st Pat § 40.

See **caveat; caveator; improvement; patent; patentable invention**.

**inventor.** The originator of an invention.

See **patent; patentable invention**.

**inventory.** An itemized list or schedule of articles in a stock of goods or merchandise, usually including notations of values. 29A Am J Rev ed Ins § 946. The foundation of the bookkeeping required by the bookkeeping clause of a fire insurance policy covering a stock of merchandise. *Hartford Fire Ins. Co. v Farris*, 116 Va 880, 83 SE 377. A list of the goods and merchandise

to be offered at an auction sale, sometimes setting forth the cost of the several items; an inventory of all goods and merchandise sold at an auction sale, giving the prices received for the items listed. *Steinberg-Baum & Co. v Countryman*, 247 Iowa 923, 77 NW2d 15. A list made by an officer serving a writ of execution of the items of personal property subjected to the levy. 30 Am J2d Exec § 298. A list made by the sheriff or other officer to whom a writ of attachment was issued, of the property seized by him in serving the writ. 6 Am J2d Attach § 310. A list made by an executor or administrator of the personal assets of the decedent. 31 Am J2d Ex & Ad §§ 209 et seq. A complete list, to be prepared and filed by a trustee in bankruptcy or a trustee in an arrangement or reorganization proceeding in the bankruptcy court, of all the property of the bankrupt or debtor that comes into his possession, except where a receiver or other officer of the court has previously prepared and filed such an inventory. 9 Am J2d Bankr § 1259. A schedule to be made and filed by a bankrupt showing the amount and kind of property owned by him the location thereof, and its money value, in detail. 9 Am J2d Bankr § 378. A detailed list of property to be prepared, verified, and filed by a bankrupt, when required by the court, showing the cost to him of his merchandise or of such other property as may be designated, as of the date of his bankruptcy. 9 Am J2d Bankr § 381.

**inventory goods.** Goods held by a person for sale, lease, or furnishing under a contract of service, raw materials, work in process, or materials used or consumed in a business. UCC § 9-109(4).

**in ventre sa mere.** In the womb of the mother.

**inventus.** Found.

**In veram quantitatem fidejussor teneatur, nisi pro certa quantitate accessit.** A surety should be held for the true quantity, unless he agreed for a certain quantity. *Bean v Parker*, 17 Mass (17 Tyng) 591, 597.

**In verbis, non verba, sed res et ratio, quaerenda est.** In expressions, not the words, but the thing itself and the meaning, are to be inquired into.

**invertare.** To verify; to prove.

**inverse condemnation.** The taking of property by an actual interference with or disturbance of property rights, without an actual entry upon the property. 26 Am J2d Em D §§ 157 et seq.

**inverse order of alienation.** The doctrine that where land subject to a paramount encumbrance is subsequently sold or encumbered in parts or parcels at different times, no intention being disclosed in the instrument that the purchaser or the encumbrancer of the part should pay the whole or his proportion of the paramount encumbrance, the parcel retained by the grantor should be first subjected to the discharge or payment of the paramount encumbrance, and the parcels alienated or encumbered should be reached only in the event the parcel retained by the grantor is not sufficient to pay the paramount encumbrance in full, and then only to the extent of the deficiency and in the inverse order of alienation; and that if all of the land covered by the paramount encumbrance has been successively alienated or encumbered in parcels, the parcel last alienated or encumbered must be first exhausted for the payment or discharge of the paramount encumbrance, before the parcel alienated or encumbered next preceding to the last may be reached, and so on in that order until the parcel first alienated or encumbered is reached, if need there be, provided the alienee or the junior encumbrancer of the party against whose parcel recourse must be had had notice of the prior alienation or encumbrance of another part. 35 Am J1st Marsh A § 32. A doctrine analogous to but at the same time in contrast with the doctrine of marshaling assets. 35 Am J1st Marsh A § 33.

**invest.** To vest; to clothe with authority; to confer upon. To make an investment of money or other property; that is, to place it where it will yield an income or revenue. *Savings Bank of San Diego County v Barrett*, 126 Cal 413, 58 P 914; *Drake v Crane*, 127 Mo 85, 29 SW 990.

**invested.** See **invest; invested capital; investment.**

**invested capital.** Literally, the money or property put into an enterprise. For the purpose of the wartime federal revenue acts, actual cash paid in, or the actual cash value of tangible property paid in, other than cash, for stock or shares in the corporation, or paid-in or earned surplus and undivided profits. *Duffy v Mutual Ben. Life Ins. Co.* 272 US 613, 71 L Ed 439, 47 S Ct 205.

**investigate.** To inquire; to make an investigation.

See **investigation.**

**investigation.** An administrative function, the exercise of which ordinarily does not require a hearing. 2 Am J2d Adm L § 257. In a more complete sense, an inquiry, judicial or otherwise, for the discovery and collection of facts concerning a certain matter or matters.

Authority to a legislative committee to make an investigation includes the power to call witnesses and to compel them to testify under oath. *People v Sharp*, 107 NY 427.

**Investigation Bureau.** See **Bureau of Investigation.**

**investigatory powers.** Powers conferred on administrative agencies to inspect, secure or require the

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disclosure of information. 1 Am J2d Admin L § 85. Judicial powers or other powers to inquire and collect facts concerning a certain matter or matters.

See **investigation.**

**investitive fact.** A fact the existence of which gives rise to a right.

**investiture.** The act of making livery of seisin; the act of investing or clothing a person with actual possession.

The ancient custom of feudal tenure whereby, while feuds were precarious, the vassal on descent of lands was admitted in the lord's court and there received his seisin. This was in the nature of a renewal of his ancestor's grant in the presence of the feudal peers. At a later period, when the right of succession became indefeasible, an entry on any of the lands within the county was considered as equivalent to the formal grant of seisin and made the tenant capable of transmitting his estate by descent. See 2 Bl Comm 209.

**investment.** The act of placing money where it will yield an income or revenue. *Savings Bank of San Diego County v Barrett*, 126 Cal 413, 58 P 914; *Drake v Crane*, 127 Mo 85, 29 SW 990. The laying out of money in such a manner that it may produce a revenue, whether the particular method be a loan, or the purchase of stocks, securities or other property. Putting money on interest, either by way of loan, or the purchase of income-producing property. *Drake v Crane*, 127 Mo 85, 29 SW 990. A note, bond, or share of stock purchased for income.

This word, within the meaning of a clause authorizing executors and trustees to retain investments or any property in which the estate may be "invested" at the time of the testator's death, means property from which an income or profit is expected to be derived in the ordinary course of events. Anno: 47 ALR2d 196.

See **investiture.**

**investment adviser.** Any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the advisability of purchasing or selling securities, or who, for compensation and as a regular business, issues analyses or reports concerning securities, excluding certain persons, such as lawyers, accountants, teachers, and engineers, who may incidentally engage in such activities. 15 USC § 80b-1.

**Investment Advisers Act.** A federal statute having the general objective of protecting the public and investors against malpractices by persons paid for advising others about securities. 15 USC § 80b-6.

**investment bonds.** The obligations of private and public bodies taken by the holders as investments. 12 Am J2d Bonds § 49.

**investment brokers.** A person or corporation licensed to deal, and actually dealing with the general public in the purchase and sale of securities. *Trading Associates Corp. v Magruder* (CA4 Md) 112 F2d 779.

**investment company.** A company which either itself or through others engages in business within the state of selling or offering for sale securities issued by itself, including a foreign corporation. 47 Am J1st Secur A § 32. Any issuer of securities which is engaged primarily in the business of investing, reinvesting, or trading in securities or in the business of issuing face-amount certificates of the instalment type. 15 USC § 80a-3(3).

**Investment Company Act.** A comprehensive federal statute regulating investment companies as defined in the act. 15 USC §§ 80a-1 et seq.

**investment contract.** A contract providing for the investment of capital in a way intended to secure income or profit from its employment. *State v Evans*, 154 Minn 95, 191 NW 425, 27 ALR 1165. An investment, as well as a contract, since the purchasers rely upon the efforts of other persons to make the investment a profitable one. 47 Am J1st Supp Secur A § 16.

If a corporation issues its securities to purchasers who pay their money justly expecting to receive an income or profit from their investment, there results an investment contract such as is referred to in blue sky laws. *State v Heath*, 199 NC 135, 153 SE 855, 87 ALR 37.

**investment credit.** A direct credit against the federal income tax applied where certain depreciable property having a useful life of at least four years is placed in service during the taxable year, the amount of the credit being seven per cent of the qualified investment which in turn depends upon the useful life of the property. IRC §§ 46(c)(1), 48(a)(1).

**investment scheme.** A plan for the making of an investment or investments. Sometimes a lottery, as where a fund is created by the payment of designated sums at stated intervals by the holders of certificates, which shall be matured and paid to the investor in an amount dependent upon chance. 34 Am J1st Lot § 14.

**investment security.** A security dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment, evidencing a share, participation, or other interest in property, or in an enterprise, or evidencing an obligation of the issuer. UCC § 8-102(1)(a).

A security normally traded on securities markets, as distinguished from ordinary commercial paper. This distinction is of importance in the case of bonds of private or public bodies, since, prior to the enactment of the Uniform Commercial Code in a particular jurisdiction, such bonds were subject to the requirements of the Negotiable Instruments Act, while, under the code, such bonds are subject to the code article dealing with "investment securities." 12 Am J2d Bonds § 49.

**investment trust.** A corporation which keeps its assets invested in stocks or bonds and distributes the returns by way of dividends and profits to the shareholders of the trust.

**investment value.** The real value of a share of corporate stock as an investment, as distinguished from book value. 19 Am J2d Corp § 520. The value calculated by the capitalization of income from the property. 27 Am J2d Em D § 286.

**invidiam.** See **in invidiam**.

**in vinculis.** In chains; in bondage; under duress. Under undue influence. 25 Am J2d Dur § 36.

**inviolable.** Not to be violated; immunity from being violated; immunity or exemption from violence.

**involute.** Unhurt, uninjured, unpolluted, unbroken. *Flint River Steam Boat Co. v Roberts, Allen & Co.* 2 Fla 102, 114. Freedom from substantial impairment. *Commonwealth v Almeida*, 362 Pa 596, 68 A2d 595, 12 ALR2d 183, cert den 339 US 924, 94

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L Ed 1346, 70 S Ct 614, and cert den 340 US 867, 95 L Ed 633, 71 S Ct 83.

**in viridi observantia.** In fresh attention; present in one's mind.

**in vita.** In life; living; alive.

**invitation.** A direct or implied inducement by the owner or occupier of premises to another person to enter or pass over such premises. *Sweeny v Old Colony & Newport R. R. Co.* 92 Mass (10 Allen) 368.

See **express invitation; implied invitation; invitee.**

**invited error.** An error induced or provoked by the party who complains thereof on appeal. *Pettingill v Perkins*, 2 Utah 2d 266, 272 P2d 185.

**invited visitor.** See **invitee.**

**invitee.** A person on the premises of another at the express or implied invitation of the latter for business purposes, for mutual advantage, or for purely social purposes. *Smith v Kroger Grocery & Baking Co.* 339 111 App 501, 90 NE2d 500, 20 ALR2d I; *Strand Enterprises v Turner*, 223 Miss 588, 78 So 2d 769, 47 ALR2d 1431; *English v Thomas*, 48 Okla 247 149 P 906; *Southcote v Stanley (Eng)* I H & N 247.

A guest of an employee of a tenant is an invitee of the landlord in the use of a common passageway. *Snyder v L. Jay Realty Co.* 30 NJ 303, 153 A2d 1, 78 ALR2d 95.

See **business visitor; guest.**

**invito.** See **ab invito.**

**Invito beneficium non datur.** A benefit is not conferred upon a person against his will.

**invito debitore.** Against the will or without the consent of the debtor.

**invito domino.** The lord or master being unwilling, -against the will of the owner.

**invitum.** See **in invitum.**

**invitus.** Against the wish; against the will; unwilling; without consent.

**in vivo vadium.** See **estate in vivo vadium.**

**In vocibus videndum non a quo sed ad quid sumatur.** In discourse it should be observed not from what but to what end it is leading.



**invoice.** A list of all the goods in a mercantile establishment, or in a department of a mercantile establishment, sometimes with the values of the items listed, such being prepared at regular times for the purpose of ascertaining the net worth of the store. A mere list of the items of personalty included in a sale-not in itself, a bill of sale. 46 Am J1st Sales § 452. A list of items included in a shipment, usually forwarded by mail to the purchaser or consignee.

See **inventory**.

**invoice price.** Literally, the amount of value placed upon an item of goods or merchandise in the invoice in which the item appears.

Appearing in a stipulation in a contract of carriage that the liability in case of loss of the goods shall be limited to the invoice price at the point of shipment, the term "invoice price" is not rendered meaningless by the fact that no invoice was actually made out or agreed upon; by application of the rule of reasonable construction, it should be considered to mean the actual value of the goods where loaded and ready for transportation. *Pierce v Southern Pacific R. Co.* 120 Cal 156, 47 P 874, 52 P 302.

See **invoice purchase price**.

**invoice purchase price.** A familiar term in contracts for the sale of a stock of goods; a price to be determined on appraisement according to what the seller paid for the articles when he bought them, not at what it would cost to buy them at the time of appraisement. 46 Am J1st Sales § 179.

**invoice value.** The invoice price. The cost price rather than the actual value. *Knopfler v Flynn*, 135 Minn 333, 160 NW 860.

See **invoice price**.

**involuntary.** Not voluntary; unintentional; without willing; independent of volition or consent; accidental. *Riley v Interstate Business Men's Acci. Asso.* (Iowa) 169 NW 488, 2 ALR 57, 62.

**involuntary adjudication.** An adjudication in bankruptcy on an involuntary petition. Bankruptcy Act § 1(2); 11 USC § 1(2). A determination, whether by decree or by operation of law, that a person is a bankrupt. 29 Am J2d Bankr § 264. A determination, whether by decree not sought by him or by operation of law, that a person is a bankrupt. 29 Am J2d Bankr § 264. In a broader sense, any judgment other than a consent judgment.

**involuntary admission.** A self-incriminating statement by one accused of crime influenced by hope, fear, or the calamity of a situation. 29 Am J2d Ev § 612.

**involuntary alienation.** A parting with the title to property resulting from its attachment, levy and sale for taxes or debts due from the owner, or from proceedings in insolvency, bankruptcy, or otherwise, whereby the owner is deprived of his interest in the property. *Manierre v Welling*, 32 RI 104, 78 A 507.

**involuntary assent.** An anomaly; a consent obtained by force, duress, or undue influence.

**involuntary assignment.** An assignment by operation of law, for example, the passing of a decedent's choses in action to the executor or administrator of his estate. 6 Am J2d Assign § 2. The transfer of the choses in action of a bankrupt to the trustee in bankruptcy. An assignment for the benefit of creditors by operation of law where a preferential or fraudulent transfer or conveyance has been made by the debtor. 6 Am J2d Assign for Cr § 3.

**involuntary assignment for benefit of creditors.** See **involuntary assignment**.

**involuntary association.** An association, such as a professional society, membership in which constitutes a valuable right, not merely a social privilege. 6 Am J2d Asso & C § 18.

**involuntary bailee.** A bailee under an involuntary bailment.

See **involuntary bailment.**

**involuntary bailment.** A bailment arising by the accidental leaving of personal property in the possession of any person, without negligence on the part of its owner. *Grossman Co. v White*, 52 Okla 117, 152 Pe 816. The deposit or placing of goods in a person's possession without his consent, as where a departing lodger leaves goods behind; or lost goods are found on land. *Preston v Neale*, 78 Mass (12 Gray) 222, 223. A bailment resulting from the action of the elements in moving property onto the premises of one other than the owner of the prop-

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erty, for example, the stranding of goods or merchandise carried by a flood onto another's land. *Mitchell v Oklahoma Cotton Growers Asso.* 108 Okla 200, 235 P 587, 41 ALR 1011.

**involuntary bankruptcy proceeding.** A proceeding in a court of bankruptcy instituted by the creditors of a person, firm, or corporation, without his or its consent, to have him or it adjudicated and declared to be a bankrupt. *Re Murray* (DC Iowa) 96 F 600, 602.

See **involuntary adjudication.**

**involuntary confession.** A confession obtained under the influence of fear, especially fear induced by threats of bodily harm, torture, personal violence, or abuse, by methods known as "sweating" or "third degree" or by holding out a promise or hope of a reward or immunity-in short, a confession which is forced or extorted in any manner by over persuasion, promise, or threats. 29 Am J2d Ev § 543.

**involuntary consent.** See **involuntary assent.**

**involuntary conveyance.** See **involuntary alienation.**

**involuntary deposit.** An involuntary bailment.

See **involuntary bailment.**

**involuntary deviation.** A deviation by a ship from the voyage, neither planned nor necessarily anticipated upon leaving port.

If the circumstances under which a ship leaves port are such that it must be known that she will be compelled to deviate from her voyage, as, for example, with a shortage of fuel, the deviation is voluntary. But if the ship leaves port unseaworthy, which includes a ship badly stowed, even if it was known, she does not voluntarily deviate if she seeks a port of refuge. *The Malcolm Baxter, Jr.* (CA2 NY) 20 F2d 304.

Literally, there is no such thing as an "involuntary deviation," since one of the elements of a deviation is voluntariness of the departure. See 29A Am J Rev ed Ins § 1000.

**involuntary discontinuance.** The forcing of a case out of court for some error in pleading, technical omission, etc., better called an involuntary dismissal. *Hunt v Griffin*, 49 Miss 742.

**involuntary dismissal.** The dismissal of an action on motion by the defendant. 24 Am J2d Dism § 53. The ultimate dismissal by a judgment against the plaintiff upon the verdict of the jury or the decision of the court in a case tried to the court.

**involuntary exposure.** A merely inadvertent and unintentional exposure to a known danger, under peculiar circumstances not affording opportunity for deliberate action, or an exposure to an unknown danger, through a voluntary act. *Diddle v Continental Casualty Co.* 65 W Va 170, 63 SE 962.

**involuntary indebtedness.** An indebtedness incurred in the performance of a duty and obligation imposed by the law of the state;—a debt incurred by a county in holding a special election as directed by statute. *State v Stannard*, 84 Or 450, 165 P 571.

**involuntary insolvency.** A proceeding under a state insolvency statute brought against an alleged insolvent. 29 Am J Rev ed Insolv § 14.

See **involuntary bankruptcy**.

**involuntary intoxication.** Drunkenness characterized by an absence of exercise of independent judgment and volition in taking the intoxicant, as where intoxication results from taking drugs prescribed for medical treatment or from deception respecting the character of the substance taken. *Johnson v Commonwealth*, 135 Va 524, 115 SE 673, 30 ALR 755; 21 Am J2d Crim L § 108. .

**involuntary losses.** Losses of capital not intentionally or voluntarily incurred. *New England Trust Co. v Paine*, 317 Mass 542, 59 NE2d 263, 148 ALR 262.

**involuntary manslaughter.** The unintentional killing of another occasioned by a person engaged at the time in doing some unlawful act not amounting to a felony and not likely or naturally tending to endanger life, or engaged in the doing of a lawful act in an unlawful manner. 26 Am J1st Homi § 18. The killing of another without malice and unintentionally, (1) in doing some unlawful act not amounting to a felony or naturally tending to cause death or great bodily harm, or (2) in negligently doing some act lawful in itself, or (3) by the negligent omission to perform a legal duty. *Commonwealth v Comber*, 374 Pa 570, 97 A2d 343, 37 ALR2d 1058.

**involuntary nonsuit.** See **nonsuit**.

**involuntary payment.** A payment forced or compelled. A payment made against the will of the person who pays, that is, a payment made under some fact or circumstance which overcomes the will and imposes a necessity of payment in order to escape further ills. 40 Am J1st Paym § 162. A payment, as of taxes, made under an immediate and urgent necessity. 51 Am J1st Tax § 1185. A payment made because of 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 has no other means of immediate relief than by making the payment. 40 Am J1st Paym § 162; 51 Am J1st Tax § 1185.

**involuntary peonage.** A redundancy, since peonage, however arising or created, is involuntary servitude. *Ex parte Hollman*, 79 SC 9, 60 SE 19.

See **peonage**.

**involuntary petition.** A petition filed in a court of bankruptcy which seeks an adjudication of bankruptcy against the defendant. 9 Am J2d Bankr § 207.

**involuntary plea of guilty.** A plea of guilty made under such inducements as would cause an innocent person to confess guilt. *Pennington v Smith*, 35 Wash 2d 267, 212 P2d 811.

**involuntary self-destruction.** Death at one's own hand but unintended.

The expression includes all cases where a person, without intending to accomplish his own death, carelessly and negligently does acts which may naturally and probably result, and do in fact result, in death. It would thus include all cases where there exists on the part of such person any direct and immediate legal or moral responsibility for his own death. But as the term is used in a life insurance policy it would not include cases where the act of the insured contributed to shorten or terminate his life, without design or negligence on his part. *Courtemanche v Independent Order of Foresters*, 136 Mich 30, 98 NW 749.

**involuntary separation of jury.** The separation of the jurors after the submission of the cause to them, from overwhelming necessity, such as tempest, fire, or the like. *Armleder v Lieberman*, 33 Ohio St 77.

**involuntary servitude.** Compulsory labor under bondage. Slavery or peonage, except as imposed by

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way of punishment for a crime whereof the party shall have been duly convicted.

**involuntary trust.** A trust founded on a contract supported by a consideration; a trust arising by operation of law. 54 Am J1st Trusts § 5. Another term for constructive trust. *Newman v Newman*, 60 W Va 371, 55 SE 377.

See **constructive trust**.

**involved.** Implicated; affected or concerned in some degree.

A subject matter, a question, or specific property is said to be "involved" in an action when it is "affected" or "directly affected" by such action. *Williams v Western Union Tel. Co.* 1 NY Civ Proc 194, 199.

**in withernam.** In retaliation; by way of reprisal or requital.

**in witness whereof.** A formal expression commonly used at the beginning of the attestation clause of any signed document, making it clear that the persons signing are witnesses.

**in writing.** See **writing**.

**iodine.** An antiseptic. A drug or medicine within the meaning of various statutory provisions. *State Board of Pharmacy v Matthews*, 197 NY 355, 90 NE 966.

**iota.** A Greek letter. A most minute quantity.

**I.O.U.** A memorandum of debt, consisting of the three letters, "I.O.U.," a statement of the amount, and debtor's signature, constituting an instrument for the unconditional payment of money only, and, according to some but not all the authorities, a promissory note. 11 Am J2d B & N § 140.

**I promise to pay.** The obligating phrase in a promissory note. 11 Am J2d B & N § 570.

See **I, we, or either of us**.

**Ipsae leges cupiunt ut jure regantur.** The very laws themselves are desirous of being ruled by what is right.

**Ipsa utilitas justi prope mater et aequi.** Utility itself is very nearly the mother of that which is just and equitable.

**ipse.** He, himself; himself.

**Ipse dixit.** He himself spoke. That is, it was his own statement not made on the authority of any precedent.

**ipsis faucibus.** See **in ipsis faucibus**.

**ipsissimis verbis.** By the very words themselves. *Gardiner v New York Central & Hudson River R. Co.* 201 NY 387, 94 NE 876.

**ipsius patris bene placito.** By the kindly grace of his father. See 1 Bl Comm 351.

**ipso.** Itself; by itself.

**ipso articulo temporis.** See **in ipso articulo temporis.**

**ipso facto.** By the fact itself by the very fact; by the act itself. State v Lansing, 46 Neb 514, 64 NW 1104.

**ipso facto et ipso jure.** By the very act and by the law itself.

**ipso jure.** By the law itself.

**ipsum matrimonium.** Marriage itself. Holt v Clarencieux (Eng) 2 Strange 937.

**i. q.** An abbreviation of idem quod, meaning "the same as."

**I.Q.** Abbreviation of intelligence quotient.

**Ira furor brevis est.** Anger is brief insanity.

"Short, however, as it is, the policy of the law is to restrain its natural operation. A few moments is all the toleration that can be given to it." Beardsley v Maynard (NY) 4 Wend 336, 355.

**ira motus.** Excited or enraged by anger or passion.

**irato.** See **ab irato.**

**IRC.** Abbreviation of Internal Revenue Code.

**ire ad largum.** To go at large; to go free of restraint.

**Ireland.** See **Eire.**

**Irish corporation.** A corporation incorporated in Ireland, such being a foreign corporation in England. 36 Am J2d For Corp § 1.

**Irish gavelkind.** A kind of land tenure under which upon the death of the proprietor there was a fresh division of all the lands in this district, including his own.

**iron.** A mineral. 36 Am J1st Min & M § 5. A metal. A tool made of iron. A term for a shackle.

See **carry the iron; pig iron; trial by the iron.**

**Iron Age.** One of the ages of man, characterized by the introduction of tools, weapons, and other instruments made of iron into the life of man.

**iron ordeal.** An ancient form of trial for crime wherein the prisoner was handed a hot iron which he carried in his hand for nine feet, whereupon his hand was bandaged and sealed to the iron and kept so for three nights. Then the bandages were removed.

If the iron was clean, he was pronounced innocent, but if unhealthy matter was found upon it, he was adjudged guilty. Sayre's Cases on Criminal Law 30.

**iron ore.** A substance containing iron which can be extracted by a process.

**iron puddler.** A person performing the process of making wrought iron from pig iron by heating and stirring it. Adcock v Smith, 97 Tenn 373, 37 SW 91.

**iron safe clause.** A provision, in a policy of insurance covering a stock of goods or merchandise, that the insured shall make and keep inventories and books of account which shall be kept in an iron or other fire proof safe, or other secure place, and that the insured shall, upon demand, produce such books and inventories for the inspection of the insurer, in default of which the policy shall be void. Diebold Safe & Lock Co. v Huston, 55 Kan 104, 39 P 1035; Westchester Fire Ins. Co. v Gray (Ky) 240 SW2d 825, 33 ALR2d 608.

**irrebuttable presumption.** Same as **conclusive presumption**.

**irrecusable.** Not to be avoided, although made an obligation without one's consent. See 8 Harvard L Rev 200.

**irredeemable.** Not subject to redemption.

See **redemption**.

**irredeemable ground rent.** A rent reserved to himself and his heirs by the grantor of land, out of the land itself. It is not granted like an annuity or rent charge, but is reserved out of a conveyance of the

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land in fee. It is a separate estate from the ownership of the ground, and is held to be real estate, with the usual characteristics of an estate in fee simple, descendible, devisable, alienable. Wilson v Iseminger, 185 US 55, 59, 46 L Ed 804, 806, 22 S Ct 573.

**irregular.** Lacking adherence to some prescribed rule or mode of proceeding, either in omitting to do something that is necessary for the due and orderly conduct of a suit, or in doing it in an unreasonable time or improper manner. Ex parte Gibson, 31 Cal 620, 625.

See **irregularity**.

**irregular deposit.** A deposit of money for safekeeping whereunder the depositee is not to return the specific money deposited, but he is to return an equal sum to the depositor. Rozelle v Rhodes, 116 Pa 129.

**irregular heirs.** (Civil law.) Those persons who took the land of a deceased person by statute in case there were neither testamentary heirs nor legal heirs.

**irregular indorsement.** Sometimes referred to as an "anomalous indorsement," meaning an endorsement for the purpose other than to transfer the instrument, an indorsement by a stranger to the instrument or a person not in an actual or apparent chain of title, or an indorsement made prior to delivery of the instrument to the payee, the purpose of such an indorsement usually being that of adding the indorser's credit to the instrument. 11 Am 12d B & N § 364.

**irregular indorser.** One who makes an irregular endorsement of a negotiable instrument.

See **irregular indorsement**.

**irregularity.** A failure to follow appropriate and necessary rules of practice or procedure, omitting some act essential to the due and orderly conduct of the action or proceeding, or doing it in an improper manner. *Sache v Gillette*, 101 Minn 169, 112 NW 386. A violation or nonobservance of established rules and practices. *State ex rel. West v Des Moines*, 96 Iowa 521, 65 NW 818. The failure to observe that particular course of proceeding which, conformably with the practice of the court, ought to have been observed in the case. *Griggs v Hanson*, 86 Kan 632, 121 P 1094. Such a defect as consists either in omitting to do something that is necessary to the due and orderly conduct of a suit, or doing it in an unseasonable time or improper manner. *Salter v Hilgen*, 40 Wis 363, 365.

The word must be given a broad enough meaning to cover a case where the court has acted upon an erroneous understanding of the facts. Such has been the practical construction placed upon it. *Cooper v Rhea*, 82 Kan 109, 107 P 799.

A direct violation of an ordinance in regard to the manner in which a municipal corporation shall enter into a contract is not a mere irregularity, but is a substantial defect rendering such a contract unenforceable. *Holbrook v Girand*, 52 Ariz 291, 80 P2d 695.

**irregular judgment.** A judgment rendered or entered with a want of adherence to some prescribed rule or mode of procedure, consisting either in omitting to do something that is necessary, or in doing it at an unreasonable time or in an improper manner. *Murray v United Zinc Smelting Corp. (Mo)* 263 SW2d 351. A judgment which, for want of conformity to the course and practice of the courts, is subject to vacation or reversal, but which may stand until vacated or reversed. *Stafford v Gallops*, 123 NC 19, 31 SE 265.

**irregular process.** Process not conforming to law. Defective process.

Sometimes the term has been defined to mean process absolutely void, and not merely erroneous and voidable, but, usually, the term has been applied to all process not issued in strict conformity with the law, whether the defects appear upon the face of the process, or by reference to extrinsic facts, and whether such defects render the process absolutely void or only voidable. *Doe v Harter*, 2 Ind 252, 253.

**irregular water course.** See **intermittent water course**.

**irrelevancy.** Want of pertinency, whether in a pleading or in evidence. Not pertinent; not forming or tendering any material issue in the case; redundant. *People v McCumber*, 18 NY 315. A term descriptive of the quality facts and circumstances which throw no light and have no logical relation the facts in issue which must be established by one party or disproved by the other; facts and circumstances which are remote and collateral. 29 Am J2d Ev §§ 251, 252.

**irrelevant.** Having the quality of irrelevancy.

See **irrelevancy**.

**irreparable damage.** See **irreparable injury**.

**irreparable injury.** As the term applies in the law of injunctions:—an injury of such a character that a fair and reasonable redress may not be had in a court of law, so that to refuse the injunction would be a denial of justice—in other words, where, from the nature of the act, or from the circumstances surrounding the person injured, or from the financial condition of the person committing it, the injury cannot be readily, adequately, and completely compensated for with money. *Miller v Lawlor*, 245 Iowa 1144, 66 NW2d 267, 48 ALR2d 1058.

To be irreparable, the injury need not be beyond the possibility of repair or beyond possible compensation in damages, nor need it be very great. The term "irreparable damage" does not have reference to the amount of damage caused, but rather to the difficulty of means measuring the amount of damages inflicted. 28 Am J Rev ed Inj § 48.

**irrepleviable.** Incapable of being recovered in an action of replevin.

**irresistible force.** A force incapable of being resisted, repelled or overcome; an overwhelming force, such as that of a mob.

**irresistible impulse.** A form of insanity, frequently termed "impulsive insanity," by which a person is irresistibly impelled to the commission of an act, for example, the killing of a person. 29 Am J Rev ed Ins Per § 3. A product of mental insanity, as distinguished from moral insanity. 21 Am J2d Crim L § 36. An impulse to commit an act, otherwise criminal, which one is powerless to control in consequence of a disease of the mind or brain, although he may be able to comprehend the nature and consequences of his act and know that it is wrong. 21 Am J2d Crim L § 36. An impulse produced by and growing out of some mental disease affecting the volitive as distinguished from the perceptive powers, so that the person afflicted, while able to understand the nature of the consequences and to perceive that the act is wrong, is unable because of such mental disease to resist the insane

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impulse to do it. *Durham v United States*, 94 App DC 228, 214 F2d 862, 45 ALR2d 1430

Insanity constituting a ground for divorce, where generated by a diseased mind. *Willis v Willis* (Mo App) 274 SW2d 621.

It is essential carefully to distinguish between instances of irresistible impulse and those situations where persons in the possession of their reasoning faculties are impelled by passion to the commission of acts which in their calmer moments would prove repulsive. *Mutual Life Ins. Co. v Terry* (US) 15 Wall 580, 21 L Ed 236.

**irresistible superhuman cause.** An act of God. A natural cause, the effect of which cannot be prevented by the exercise of prudence, diligence, and care, and the use of those appliances which the situation of the party renders it reasonable that he should employ. *Fay v Pacific Improv. Co.* 93 Cal 253, 261, 26 P 1099.

**irretrievably insolvent.** See **hopelessly insolvent.**

**irreversible.** Not capable of being reversed or annulled.

**irrevocability.** The want of power to recall or nullify a grant. 23 Am J2d Deeds § 6. The characteristic of a deed which distinguishes it from a will. 23 Am J2d Deeds § 6.

See **irrevocable.**

**irrevocable.** Not revocable at the will of one party. *Re Zimmerman*, 236 NY 15, 139 NE 764.

The usual meaning of the word is never to be revoked; never to be abrogated, annulled, or withdrawn. But a court will not so interpret the word when such a construction would be unreasonably harsh. *Mutual Reserve Fund Life Asso. v Boyer*, 62 Kan 31, 61 P 387.

Even an agreement made irrevocable by statute is revocable by the mutual consent of the parties. 5 Am J2d Arb & A § 41.

**irrevocable election.** An election between inconsistent remedies made by a party, with knowledge of the facts, and in the absence of fraud or imposition. 25 Am J2d Elect R § 32. *Flickinger v Shaw*, 87 Cal 126, 25 P 268. Also, in some jurisdictions, a license in connection with which the licensee has made expenditures in maintenance and improvement. 33 Am J1st Lic § 103.

It is a general rule that a license in the nature of a special privilege conferred by a public body may be withdrawn at the discretion of the body or sovereignty which granted it. 33 Am J1st Lic § 65.

**irrigate.** To convey water to or upon anything; to wet or moisten. *Charnock v Higuerra*, 111 Cal 473, 44 P 171.

**irrigating plant.** A mechanical device installed upon land for the purpose of irrigation. *Gracy v Gracy*, 74 Fla 63, 76 So 530.



**irrigation.** The artificial watering of agricultural land in regions where the rainfall is insufficient for crops; application of water to land for the production of crops, whether by channels, by flooding, or merely by sprinkling. 30 Am J Rev ed Irrig § 2.

See **return flow**.

**Irrigation Act.** See **Reclamation Act**.

**irrigation company.** A private company organized for the purpose of constructing and operating irrigation works as an independent business enterprise. A mutual company of individual landowners in association for the purpose of obtaining water and using it for the irrigation of their own lands. A company organized for the purpose of the purchase and development of tracts of arid land and the construction of irrigation works in connection with the enterprise, with the view of the subsequent sale of smaller tracts with appurtenant irrigation rights. 30 Am J Rev ed Irrig § 46. A public utility subject to regulation and control as such where it holds itself out generally to serve for compensation all who may apply for water within the area served by its irrigation system. 30 Am J Rev ed Irrig § 47.

**irrigation district.** An improvement district established under government authority to accomplish the purpose of irrigation by the united efforts of landowners. 30 Am J Rev ed Irrig § 60. A public debtor within the meaning of the provisions of the Bankruptcy Act for the composition of the indebtedness of certain public agencies or instrumentalities. 9 Am J2d Bankr § 1416. Sometimes regarded as a governmental subdivision. *Platt Valley & I. Dist. v Lincoln County*, 144 Neb 584, 14 NW2d 202, 155 ALR 412. Not a public service corporation in the sense of being a common carrier, since its operations are confined to the business of carrying and supplying water for the irrigation of lands within its area. *Stephenson v Pioneer Irrigation Dist.* 49 Idaho 189, 69 ALR 1225, 288 P 421.

**irritancy.** Becoming void; making void; avoiding.

**irritant.** Rendering void or null.

**irritant clause.** A clause in a deed or other instrument containing a condition the happening of which will render the instrument void.

**irritant poison.** A poison such as arsenic which, when administered internally, causes severe irritation of some or all parts of the alimentary canal.

The most general effect of irritant poisoning is acute inflammation of the stomach. *Joe v State*, 6 Fla 591, 605.

**irritus.** Ineffectual; void.

**irrogare.** (Civil law.) To inflict; to impose; to levy; as, a tax.

**irrotulatio.** An enrollment; a record; a roll.

**is cui cognoscitur.** He to whom it is acknowledged; a cognizee.

**Islam.** The Mohammedan religion and its followers.

See **Mohammedanism**.

**island.** A body of land surrounded by water. 56 Am J1st Wat § 504.

To constitute an island in a river, the formation or body must be of a permanent character, not merely surrounded by water when the river is high, but permanently surrounded by a channel of the river, and not a sand bar subject to overflow by the rise of the river and connected with the main land when the river is low, but it is not necessary that the formation on the bed

of the river and extending above its surface be suitable for agricultural purposes in order to constitute it an island. *Howler v Wood*, 73 Kan 511, 85 P 763.

**isolated transaction.** A transaction which stands alone, not one of repeated or successive transactions. *Brannan, Beckham & Co. v Ramsaur*, 41 Ga App 166, 152 SE 282.

**isolation hospital.** A hospital wherein persons having contagious diseases are confined.

**isotope.** See **radioisotope**.

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**is qui cognoscit.** He who acknowledges; a cognizor.

**issint.** Thus.

**issuable.** Prepared and ready for issue, as bonds. Capable of being raised as an issue.

**issuable facts.** Ultimate facts, as distinguished from matters of evidence. *Heyward v Long*, 178 SC 351, 183 SE 145, 114 ALR 1130.

**issuable plea.** A plea which goes to the merits of the case. *Welsh v Blackwell*, 14 NJL 344, 346.

**issuable terms.** The terms of court at which the issues were made up for the assizes. See 3 Bl Comm 353.

**issuance.** The act of issuing.

See **issue**.

**issue.** Verb: To come forth; to come out. To put forth, as to issue corporate securities. Noun: That which is issued at a particular time, as a bond issue. An increment, product, profit, or crop arising from real estate. 33 Am J1st Life Est § 313. All the copies of a newspaper or magazine issued at one time. An essential of the proper disposition of a case in court; a single, certain, and material point or question arising out of the pleadings of the parties, being either of law or of fact. 41 Am J1st Pl § 362.

All the persons who may occupy the position of a descendant of one ancestor, *Re Farmers' Loan & Trust Co.* 213 NY 168, 107 NE 340, 2 ALR 910; embracing all future descendants. 57 Am J1st Wills §§ 1377-1384. Including, when used in a deed, descendants of every degree in the absence of an explanatory context to the contrary. 23 Am J2d Deeds § 216. Under a power to appoint to "issue:" –not limited to children but including descendants in any degree, unless an intent to limit to children is apparent. 41 Am J1st Pow § 58. But sometimes construed, when it appears in a will, as meaning "children" and not including grandchildren. *Watterson v Thompson*, 404 Ill 515, 89 NE2d 381, 14 ALR2d 1239.

Prima facie a word of limitation equivalent to "heirs of the body." 57 Am J1st Wills §§ 1377-1384.

A word of limitation creating an estate tail. 28 Am J2d Est § 51. But not a technical word either of limitation or of purchase, readily yielding to construction in this respect in accordance with the intention of the testator or grantor. 28 Am J2d Est § 120. Construed as a word of purchase in a will where the context of the instrument demands such construction. 28 Am J2d Est § 43. A word of limitation or of purchase in a will depending upon a sound construction of the instrument. 57 Am J1st Wills §§ 1377 et seq. Appearing in a deed ordinarily as a word of limitation, but as a word of purchase if the grantee has issue living at the time of the deed or if the context of the deed shows that the word is not used in a technical sense but refers specifically to children. Anno: 114 ALR 619.

**issue at law.** A question or point of law arising in a case upon demurrer or motion.

Under the equity practice of submitting an issue at law to be tried by a jury, the words "issue at law" mean such an issue as has always been known and employed in the administration of equity jurisprudence. *Brady v Carteret Co.* 70 NJ Eq 748, 64 A 1078.

**issue begotten of her body.** As the phrase appears in a will, sometimes but not necessarily indicating "children." 57 Am J1st Wills § 1380.

**issue by marriage.** Children, except as the entire context indicates to the contrary. Anno: 2 ALR 937.

**issue devisavit vel non.** See **devisavit vel non.**

**issue extinct.** See **possibility of issue extinct.**

**issue in law.** See **issue at law.**

**issue joined.** See **joinder of issue.**

**issue legally begotten.** Sometimes, but not necessarily, importing inheritance and procreation, thereby, as a limitation, creating a fee simple conditional. 28 Am J2d Est § 41.

**issue of fact.** A single, certain, and material part of dispute arising upon a denial of a material allegation in the adversary's pleading, or where by force of statute a material allegation is to be considered controverted without further pleading. 41 Am J1st Pl § 362. Such an issue as is made by the pleadings in a civil action, where the facts alleged, constituting the cause of action, are denied. *Dean v Willamette Bridge R. Co.* 22 Or 167, 29 P 440.

Arising when a fact or conclusion of fact is maintained by one party, and is controverted by the other in the pleadings. *Harris v San Francisco Sugar Refining Co.* 41 Cal 393, 404.

In a criminal prosecution an issue of fact may arise upon a plea of not guilty, or upon a plea of former conviction, or acquittal of the same crime. *State v Walton*, 50 Or 142, 91 P 490.

**issue of his body.** Words of limitation converting a fee simple into a fee tail, being words of inheritance as well as words of procreation. 28 Am J2d Est § 51.

**issue of patent.** The grant of letters patent for an invention upon application made therefor, together with a description and a drawing, specimen, or model of the device. 40 Am J1st Pat §§ 40 et seq.

**issue of riens per descent.** See **riens per descent.**

**issuer.** In general one who issues something. A person who places or authorizes the placing of his name on a security (otherwise than as authenticating trustee, registrar transfer agent, or the like) to evidence that it represents a share, participation, or other interest in his property or in an enterprise or to evidence his duty to perform an obligation evidenced by the security; directly or indirectly creates fractional interests in his rights or property which fractional interests are evidenced by securities; or becomes responsible for or in place of any other person described as an issuer. UCC § 8-201(1).

**issue roll.** A record upon which the issues in an action were entered as soon as they were reached by the pleadings filed.

**issues.** See **issue.**

**issuing bonds.** See **bond issue.**

**issuing execution.** See **issuing writ of process.**

**issuing insurance policy.** A phrase variously construed:-(1) the signing and execution of the policy by the officers of the insurance company; (2) act of delivery of the policy fully executed; (3) the certain date indicated by the policy as the effective date. 29 Am J Rev ed Ins § 312.

**issuing money.** The act of the government in putting coins and bills into circulation, the purpose being to have them circulate as money. 36 Am J1st Money §§ 11 et seq.

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**issuing negotiable instrument.** The first delivery of a negotiable instrument complete in form to a person taking it as a holder. Uniform Negotiable Instruments L § 191.

An instrument is "issued" rather than negotiated to the original payee. *Firestone Tire & Rubber Co. v Central Nat. Bank*, 159 Ohio St 423, 50 Ohio Ops 364, 112 NE2d 636; *Texas Gulf Trust Co. v Notias* (Tex Civ App) 352 SW2d 925 error ref n r e.

**issuing stock.** All the process of authorizing, executing, and delivering the certificates of stock to the subscribers, thereby conferring upon and vesting in them the rights and privileges of stockholders. *Majestic Household Utilities Corp. v Stratton*, 353 Ill 86, 186 NE 522, 89 ALR 852; *Don Johnston Drilling Co. v Howard* (Okla) 347 P2d 640, 78 ALR2d 824.

Something more than merely procuring contracts of subscription to the stock of the corporation not in being, but which maybe organized in the future. *Felton v Highlands Hotel Co.* 165 Ga 598, 141 SE 793, 57 ALR 987.

The issuance of new stock certificates to replace lost certificates or to evidence a stock transfer, or upon a split up of outstanding existing shares of stock, does not involve "issuance of new or additional stock," within a statute subjecting a public service corporation to the payment of a fee for each authorized "issue of securities." *Lake Superior Dist. Power Co. v Public Service Com.* 250 Wis 39, 26 NW2d 278, 170 ALR 680.

When certificates of stock are officially executed and delivered by a corporation to its stockholders they are "issued" in the ordinary sense, but when such stock is called in and canceled as of record the original shares can no longer be said to be "issued." *Majestic Household Utilities Corp. v Stratton*, 353 Ill 86, 186 NE 522, 89 ALR 852.

**issuing writ or process.** The preparing, signing, sealing, and delivering of the writ or process to the sheriff or other proper officer for service or levy. *Ball v Jones* (Fla) 65 So 2d 3, 37 ALR2d 922; *Pease v Ritchie*, 132 Ill 638, 24 NE 433.

**ita.** Thus; so.

**Ita est.** It is thus; it is so.

**Ita lex scripta est.** The law is thus written; such is the written law. *Hawaii v Mankichi*, 190 US 197, 248, 47 L Ed 1016, 1034, 23 S Ct 787.

**ita quod.** So that.

**Ita semper fiat relatio ut valeat dispositio.** Let the reference always be so made that the disposition may prevail.

**Ita te Deus adjuvet.** So help you God.

**Ita utere tuo ut alienum non laedas.** So use your own property that you do not injure that of another.

**it being understood.** Words of qualification; the equivalent of:-if such and such is true, then it is agreed. *Phoenix Iron & Steel Co. v Wilkoff Co.* (CA6 Ohio) 253 F 165, 1 ALR 1497. A phrase which, appearing in a grant, imports a covenant rather than a condition. 28 Am J2d Est § 146.

**item.** A particular, a detail; a distinct and severable part.

**itemize.** To state in items or by particulars. *Lovell v Sny Island Levee Drainage Dist.* 159 Ill 188, 42 NE 600.

**item of gross income.** Any item or amount which affects gross income as such exists for the purpose of an income tax. Anno: 54 ALR2d 573.

**items of appropriation.** The distinct subjects of appropriation in an appropriation bill. Anno: 35 ALR 602.

**iter.** A footway. *Jones v Venable*, 120 Ga 1, 47 NE 549.

**iteratio.** An iteration; a repetition.

**Iter est jus eundi, ambulandi hominis, non etiam jumentum agendi vel vehiculum.** A way is a right of going or walking by man, and not of driving a beast of burden or a vehicle.

**I think.** Not necessarily indicating a conclusion; consistent with considering the testimony of a witness, who uses the expression as a preface, as a matter of his own observation and recollection. *Losey v Atchison, Topeka & Santa Fe Railway Co.* 84 Kan 224, 114 P 198. An expression capable of construction as an allegation of fact. 41 Am J1st Perj § 9.

**itinerara.** Plural of iter.

**itinerant.** Traveling from place to place; wandering; a person who roams or travels from place to place.

**itinerant dealer.** One who establishes himself in business in a locality with the intention and determination to remain there for a short period of time only, whether such period is a definite or indefinite one, such as a period of one or more weeks or months, or until a particular stock of merchandise is disposed of, or until the local market for the commodity handled by the dealer has been exhausted, and who for such limited period engages or occupies a building or other place for the exhibition and sale of his goods or wares. Anno: 94 ALR 1084, 1088. Sometimes called an "itinerant merchant." *Carrolton v Bazzette*, 159 111284, 42 NE 837. Distinguished from a peddler in the respect that he has a definite place for the exhibition and sale of his goods, however temporary his stay at such place may be. Anno: 94 ALR 1083.

**itinerant domicil.** The domicil of a person in the course of a trip from an old to a new home, such being the old domicil until the new is reached. 25 Am J2d Dom § 35.

**itinerant merchant.** Same as **itinerant dealer**.

**itinerant photographer.** A photographer without any fixed place of business who obtains his orders by soliciting them from house to house or place of business to place of business. Anno: 116 ALR 1377, s. 134 ALR 1382.

**itinerant physician.** A physician not entitled to a license to practice, because of the want of a fixed place for the practice of his profession and further because of the solicitation of patients. Anno: 61 ALR 346.

**itinerant vender.** A hawker, peddler, or itinerant merchant.

A statutory definition of the term includes all persons, both principal and agents, who engage in a temporary or transient business in this state, either in one locality or in traveling from place to place selling goods, wares, and merchandise, and who, for the purposes of carrying on such business,

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hire, lease, or occupy any building or structure for the exhibition and sale of such goods, wares, and merchandise. A person having a permanent place of business may still be an itinerant vender elsewhere within the state. *State v Foster*, 22 RI 163, 46 A 833.

See **hawker; itinerant merchant; peddler.**

**itinere.** See **durante itinere; in itinere.**

**it is lawful.** A permissive term in a statute, especially where the act involved does not affect third persons, and is not clearly beneficial to them, or to the public generally. 50 Am J Stat § 28.

**it is understood.** Same as **it being understood.**

**I, we, or either of us.** A series of pronouns referring to the makers of a promissory note, the effect of which is to render the promise to pay joint and several. 11 Am J2d B & N § 587.