

n. Abbreviation of noon. Abbreviation of north. Burr v Broadway Ins. Co. 16 NY 267, 271. Abbreviation of neutron.

naam. (Saxon.) A taking; a distraining of goods.

nagging. Persisting in criticism, scolding, and complaints, sometimes constituting mental cruelty entitling the injured party to a divorce. Metcalf v Metcalf, 50 Wash 2d 167, 310 P2d 254. Irritating, disturbing, ruffling, or troubling the mind by persistent urging. Buchanan v Davis (Tex Com App) 12 SW2d 978.

naif. A person born a slave; a villein.

naivitas. Villeinage,—the tenure or condition of a villein.

naked. Nude; unclothed; stripped of clothing; bare; incomplete; not full.

A person was held not to have been naked when he was stripped of clothing down to his waist. Commonwealth v Dejardin, 126 Mass 46.

naked confession. A confession which has not been corroborated.

naked possession. Actual possession without color of title. 3 Am J2d Adv P § 26.

naked power. A power of disposal accompanied by no interest or estate in the donee of the power. 41 Am J1st Pow § 5. A power of sale in a mortgage or deed of trust, accompanied by no interest, which can be executed only by the person designated. 37 Am J1st Mtg § 650.

naked trust. Same as **dry trust**.

nam. (Latin.) For; because.

See **naam.**

namare. To take; to distrain.

namatio. A taking; a distress.

Nam de minimis non curat lex. For the law does not pay attention to trifles.

name. The designation by which a person is known and called in the community in which he lives and is best known; the word or combination of words by which a person is distinguished from other individuals. 38 Am J1st Name § 2. The label or appellation which a person bears for the convenience of the world at large in addressing him, or in speaking of or dealing with him. Roberts v Mosier, 35 Okla 691, 132 P 678.

name and arms clause. The condition in a will, deed of gift, or deed of trust, that the person upon whom the property or beneficial interest is bestowed shall assume the name and arm, or crest of the testator or settlor. Byng v Byng, 10 HL Cas 171, 11 Eng Reprint 991.

named insured. The person expressly designated in an automobile liability insurance policy as the person insured, as distinguished from other persons who may come within the protection of the policy by virtue of their relationship with the person thus named. *Farley v American Auto. Ins. Co.* 137 W Va 455, 72 SE2d 520, 34 ALR2d 933.

name index. An index of records of title by the names of grantee and grantees, mortgagor and mortgagee, etc.

name of corporation. See **corporate name.**

name of partnership. Except as otherwise required by statute, the name selected by the partners as a firm name. 40 Am J1st Partn § 10.

Nam ex antecedentibus et consequentibus fit optima interpretatio. For the best interpretation is made by examining the words which precede and those which follow; i. e., the context.

Nam feudum sine investitura nullo modo constitui potuit. For a fee cannot be perfected in any manner without investiture. See 2 Bl Comm 311.

narium. A taking; a distress of an owner's goods or cattle, either damage feasant, or by way of security for unpaid rent, overdue. See 3 Bl Comm 148.

narium vetitum. A forbidden distress; that is, an improper or wrongful distress; as where goods or beasts have been distrained, under a pretense of their having done damage, and eloigned, or carried off to places unknown to their owner. See 1 Bl Comm 148.

Nam leges vigilantibus, non dormientibus, subveniunt. For the laws aid the vigilant, not those who slumber.

Nam nemo est haeres viventis. For no one is the heir of a living person. See 2 Bl Comm 107.

Nam neque quies gentium sine armis, neque arms sine stipendis, neque stipendia sine tributis, haberi quent. For it is neither possible to have the peace of nations without armies, nor armies without pay, nor pay without taxes.

Nam omne testamentum morte consummatum est, et voluntas testatoris est ambulatoria usque ad mortem. For every testament is consummated by death, and the will of the testator is revocable up to his death. See 2 Bl Comm 502.

Nam qui tacit per alium, facit per se. For he who acts through another does the act himself.

Nam qui haeret in literis, haeret in cortice. For he who clings to the letter keeps inside the rind; i. e., one who is too literal does not touch the meat or substance of the transaction.

Nam quilibet potest renunciare juri pro se introducto. For anyone may renounce a right introduced for his own benefit.

Nam qui non prohibet, cum prohibere possit, jubet. For he who does not prevent when he can prevent, orders or sanctions. 1 Bl Comm 430.

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Nam quod remedio destituitur, ipsa re valet, si culpa absit. For that which lacks a remedy is the stronger by reason of that very fact, if it is without fault.

Quoting Lord Bacon, Blackstone says, "The benignity of the law is such, as when, to preserve the principles and grounds of law, it depriveth a man of his remedy without his own fault, it will rather put him in a better degree and condition than in a worse." See 3 Bl Comm 20.

Nam quod semel meum est, amplius meum esse non potest. For that which is once mine cannot be mine more fully.

Nam quo major vis est animi quam corporis, hoc sunt graviora ea, quae concipiuntur animo quam illa quae corporae. For, as the power of the mind is greater than that of the body, in the same way the sufferings of the mind are more severe than the pains of the body. Young v Western Union Tel. Co. 107 NC 370, 11 SE 1044.

Nam silent leges inter arma. For laws are silent among arms.

Nam verba debent intelligi cum effectu ut res magis valeat quam pereat. For words ought to be understood in such a way that they may have some effect, so that the instrument may rather be valid than void.

naphtha. A highly inflammable and explosive liquid obtained by the distillation of petroleum. Standard Oil Co. v Wakefield, 102 Va 824, 47 SE 830. A product of petroleum intermediate between the associate products of gasoline and benzine. Gately v Taylor, 211 Mass 60, 97 NE 619.

naphtha fraction. The elements taken together, more volatile than kerosene, which result from the first distillation of crude oil. United States v Gulf Refining Co. 268 US 542, 547, 69 L Ed 1082, 1086, 45 S Ct 597.

Napoleonic Code. See **Code Napoleon.**

naprapathy. A drugless system of treating human ailments by manipulation, based on an underlying theory that many human ailments are caused by a tightened or shrunken condition of a ligament. People v Witte, 315 Ill 282, 146 NE 178, 37 ALR 672.

narcotic. Singular of **narcotics**.

Narcotic Act. A federal statute which renders it unlawful for any person to purchase, sell, dispense, or distribute narcotics except in or from the original stamped package; or to sell, barter, give away, or otherwise transfer narcotics, except upon the written order on a prescribed form issued for a purpose; or for any unregistered person to have narcotic drugs in his possession or under his control, or to send, ship, carry, or deliver narcotics between the states or insular possessions or from or into the District of Columbia. 26 USC § 4724(b). A statute, known in its original form as the Harrison Narcotic Act, the manifest purpose of which is to require every person dealing in drugs to ascertain at his peril whether or not a product he sells comes within the inhibition of the statute, and to penalize any dealer who sells prohibited drugs, even though he may be ignorant of their character as such. 25 Am J2d Drugs §§ 34, 35.

Narcotic Drug Act. An act of Congress (38 Stat 785) which imposed a special tax on the manufacture, importation, and sale or gift of opium, cocoa leaves or their compounds or derivatives. United States v Doremus, 249 US 86, 63 L Ed 493, 39 S Ct 214. One of the uniform laws. 25 Am J2d Drugs § 18.

See **dealer**.

Narcotic Drugs Import and Export Act. A statute which makes it unlawful, with certain exceptions of narcotics necessary for medical and legitimate uses, to import any narcotic drug into the United States or any territory under its control or jurisdiction; and, with certain exceptions relating to the exportation of certain drugs for medical and scientific uses to countries that are parties to specified international conventions and agreements relating to the control of the traffic in narcotics, prohibits and

prescribes punishment for the exportation of narcotic drugs from the United States or from any territory under the control or jurisdiction of the United States. 21 USC §§ 171 et seq.; 25 Am J2d Drugs § 34.

narcotics. Substances which directly induce sleep, allay sensibility and blunt the senses, and which, when taken in large quantities, produce narcotism or complete insensibility. 25 Am J2d Drugs § 2.

narr. An abbreviation of **narratio**; in the plural, "narrs."

narrare. To narrate; to allege in a declaration or complaint; to allege as one of the counts of a declaration or complaint.

narratio. A declaration or complaint; one of the counts of a declaration or complaint.

narrative. A statement of facts and events in the form of a running commentary.

narrative abstract of record. An abstract of record on appeal summarized in narrative form. 4 Am J2d A & E § 408.

narrative bill of exceptions. A bill of exceptions in narrative form as distinguished from a verbatim transcript of the evidence. 4 Am J2d A & E § 435.

narrative form in taking testimony. A method of receiving the testimony of a witness, the witness being asked to state the facts and then permitted to state them more or less in full in one long statement. Pumphrey v State, 84 Neb 636, 122 NW 19.

narrative transcript. A reporter's transcript in narrative form rather than a verbatim record. 4 Am J2d A & E § 412.

narratores. See **banci narratores**.

narrow construction. Rejecting the comprehensive sense, in favor of a narrow, contracted meaning, of words. Flaska v Dayton, 51 NM 13, 177 P2d 174. A technical construction. Clarke v Johnson, 199 Ga 163, 33 SE2d 425.

See **literal construction**.

narrow gauge railroad. A railroad having a width between the rails of less than the standard gauge.

narrow seas. A somewhat parochial term for waters of the ocean on the coast of England inside low-water mark. Commonwealth v Macloon, 101 Mass 1.

narrow view. The designation given the doctrine in reference to the right of a grantee to an easement in street or alley shown on a map or plat referred

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to in the conveyance to him, that his private right of user is limited to the abutting street or alley and such others as are necessary to give him access to a public highway. 25 Am J2d Ease § 26.

nasci. To be born.

nasciturus. A person to be born in the future.

nastre. To be born.

natale. The state or condition which a person inherits.

nati et nascituri. Persons already born or in being and those who are to be born in the future.

natio. A nation; a birthplace; a race of people.

nation. A body politic or society of men united together for the purpose of promoting their mutual safety and advantage by their combined strength, occupying a definite territory and politically organized under one government. 30 Am J Rev ed Internat L § 10.

The word presupposes or implies an independence of any other sovereign power more or less absolute, an organized government, recognized officials, a system of laws, definite boundaries, and the power to enter into negotiations with other nations. Montoyo v United States, 180 US 261, 45 L Ed 521, 21 S Ct 358.

See **sovereign state; state.**

national. Pertaining to the nation, that is, the United States.

See terms and expressions beginning **federal; national; United States.**

National Acts. Acts of Congress; federal statutes.

See particular terminology, such as **Labor Relations Act; Narcotic Act**, etc.

national agencies and instrumentalities. Agencies, departments, and instrumentalities of the United States.

See particular agency or instrumentality, such as **Interstate Commerce Commission; Labor Relations Board; State Department**, etc.

national bank. An instrumentality or agency of the Federal Government although, for the most part, similar in nature to, and governed by, the same rules as state banks insofar as their functions, powers, and liabilities are concerned. 10 Am J2d Bks § 5. A private banking corporation organized under United States statutes, and intended for public accommodation. Ryan v McLane, 91 Md 175, 46 A 340.

National Bank Act. A federal statute having the purpose of authorizing and regulating national banks. 10 Am J2d Bks § 14.

national banking association. A national bank.

As the term is used in the Judicial Code providing that for the purposes of suits against them, they are to be deemed citizens of the states in which they are respectively located, it does not include the Federal Reserve banks but is used to describe the ordinary commercial banks. American Bank & Trust Co. v Federal Reserve Bank, 256 US 350, 357, 65 L Ed 983, 989, 41 S Ct 499.

national bank notes. See **bank notes.**

national cemetery. A cemetery for which provision is made by Congress, administered by the National Park Service, Department of the Interior, and devoted as a place of burial for members of the Armed Forces, veterans of the Armed Forces, and the wives of such members and veterans. 24 USC § 281.

national citizenship. Citizenship in the United States as distinguished from citizenship of a state. 16 Am J2d Const L § 469.

The Fourteenth Amendment to the Constitution of the United States bridges the gap left by Article 4, § 2, so as to safeguard citizens of the United States against any legislation of their own states having the effect of denying equality of treatment in respect of the exercise of their privileges of national citizenship in other states. Colgate v Harvey, 296 US 404, 80 L Ed 299,

56 S Ct 252, 102 ALR 54, ovrld on another point Madden v Kentucky, 309 US 83, 84 L Ed 590, 60 S Ct 406, 125 ALR 1383.

national corporations. Corporations organized under the authority of acts of Congress.

national currency. That which is issued as money under the sanction of the nation. State v Gasting, 23 La Ann 609.

national debt. The debt of the United States and federal agencies held by the public. In other words, the debt of the United States plus the debts of the federal agencies less United States securities held by federal agencies and federal trust funds, and federal agency securities held by the United States Treasury and other federal agencies.

national defense. The military establishment of the United States and preparation for the defense of the nation against the enemy. Germ v United States, 312 US 19, 85 L Ed 488, 61 S Ct 429, reh den 312 US 713, 85 L Ed 1144, 61 S Ct 617. A power of Congress under Clauses 11 to 16, inclusive, of Section 8 of Article I of the United States Constitution.

national domain. The public lands of the United States which are owned by the national government.

national domicil. Domicil in a nation. 25 Am J2d Dom § 12. The nation or country in which a person has his domicil, as distinguished from his state or local domicil.

national emergency. Any event which threatens peril to the nation or the people. An event of which cognizance must be taken if the safety of the nation and its people is to be preserved.

National Formulary. See **Formulary**.

national government. The federal government of the United States. The government of a single nation, united as a community by what is termed the social compact, and possessing complete and perfect supremacy over persons and things, so far as they can be made the lawful objects of civil government. Piqua Bank v Knoup, 6 Ohio St 342, 394.

National Guard. An organization of armed men, created and maintained under the United States Constitution, the federal statutes, and state constitutions and state statutes. 36 Am J1st Mil § 42. A primary reserve of the United States Army and Air Force, serving the states in disasters and civil disturbances, and subject to call to service of the United States in time of war or in anticipation of war.

While enrolled as soldiers of the state, the active militia or national guard, are neither "troops," nor a 'standing army.' State ex rel. Madigan v Wagener, 74 Minn 518, 77 NW 424.

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nationality. Belonging and owing allegiance to a nation through being a citizen thereof by birth or naturalization. The national character of a ship as recognized by the law of nations, because it regularly carries the flag of the nation to which it belongs. 48 Am J1st Ship § 39. A term sometimes used incorrectly in referring to the national origin of an alien or naturalized citizen.

The fundamental principle of the common law with regard to English nationality was birth within the allegiance of the king. The principle embraced all persons born within the king's allegiance and subject to his protection. Such allegiance and protection were mutual, and were not restricted to natural-born subjects, or to those who had taken an oath of allegiance; but were predicable of aliens in amity, so long as they were within the kingdom. Children born of such aliens were therefore natural-born subjects. United States v Wong Kim Ark, 169 US 649, 655, 42 L Ed 890, 893, 18 S Ct 456.

Nationality Act. See **Immigration and Nationality Act**.

nationality of ship. See **nationality**.

nationalization. The taking over of an industry by a government, sometimes, although not necessarily, involving the confiscation of property.

nationalization loss. A loss incurred by the nationalization of property by a foreign government.

national origin. The descent or extraction of a person in reference to the nationality of his ancestors. *Gonzales v Sheely* (DC Ariz) 96 F Supp 1004.

National Prohibition. See **prohibition**.

national public policy. The public policy which prevails throughout the country as distinguished from the public policy of a locality. 17 Am J2d Contr § 176.

National Service Life Insurance. A special statutory type of life insurance for servicemen provided by the National Service Life Insurance Act of 1940. 29A Am J Rev ed Ins §§ 1970, 1980 et seq.

National Socialist. See **Nazi**.

national union. An association of local labor unions which is national in scope. 31 Am J Rev ed Lab § 42.

nativa. A naif; a female villein.

native. Noun: A person born within the jurisdiction. *United States v Wong Kim Ark*, 169 US 649, 42 L Ed 890, 18 S Ct 456. One of local birth. Adjective: Indigenous.

nativi. Villeins; vassals.

nativitas. Same as villeinage.

nativity. Birth, particularly the place and surroundings.

Nativity. The birth of Jesus Christ.

nativo habendo. A writ which a lord might have to recover a villein who had escaped and fled.

nativus. A villein.

Natura appetit perfectum, ita et lex. Nature seeks perfection, and so does the law.

Natura Breuum. An old collection of original writs which was compiled during the reign of Edward the Third.

Naturae vis maxima; natura bis maxima. The force of nature is the most powerful; nature is doubly powerful.

Natura fide jussionis sit strictissimi juris et non durat, vel extendatur de re ad rem, de persona ad personam, de tempore ad tempus. The nature of a suretyship is one of strictest law and does not endure or suffer an extension from one thing to another, from one person to another, or from one time to another.

natural. Occurring according to the usual course of nature or according to the operation of natural laws, which, in the particular case, may be unusual and extraordinary in common experience. Shafer v Keeley Ice Cream Co. 65 Utah 46, 234 P 300, 38 ALR 1523, 1527.

natural affection. That affection which a person's near relative is presumed to have for him.

natural allegiance. Allegiance to the sovereign or government of one's native state or country; allegiance by birth.

natural and probable consequence. A test of proximate cause. 38 Am J1st Negl § 57.

See **natural consequence; probable consequence.**

natural-born citizen. A citizen by birth, as distinguished from a citizen who has been naturalized.

natural boundary. See **natural monument.**

natural causes. Causes arising from the elements. Causes arising in the course of nature, not produced by man.

natural channel. The channel of a river or stream which has been formed by nature; the floor or bed on which the water flows and the banks on each side thereof as carved out by natural causes. Pima Farms Co. v Proctor, 30 Ariz 96, 245 P 369.

natural child. A child acquired by its lawful parents through birth rather than by adoption. A child born out of wedlock; an illegitimate child.

natural consequence. The consequence of an act which ordinarily follows it. 38 Am J1st Negl § 57. A result which reasonably might have been foreseen. McCann v Newark & South Orange Railway Co. 58 NJL 642, 34 A 1052. A consequence which might naturally be expected to follow; damages which would result in the usual course of things, as distinguished from accidental or collateral injury, or such as would spring from special circumstances not usually attendant upon such transactions. 22 Am J2d Damg § 56.

See **probable consequence; proximate result.**

natural day. The period of time elapsing between sunrise and sunset. Re Ten-Hour Law for Street Railway Corp. 24 RI 603, 54 A 602.

natural death. A death occurring other than through external violence or human agency. Slevin v Board of Police Pension Fund Comrs. 123 Cal 130, 55 P 785.

natural demand. A call of nature.

natural drainway. A natural means of drainage of surface water. A ravine, gorge, or similar depression, by means of which the surface water of a hilly or mountainous country is drained. Anno: 81 ALR

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271. A depression or channel created by natural causes in which surface water flows at some season of the year. Tide Water Oil Sales Corporation v Shimelman, 114 Conn 182, 158 A 229, 81 ALR 256. A channel cut through the turf and into the soil by the flowing of water. Tide Water Oil Sales Corp. v Shimelman, 114 Conn 182, 158 A 229, 81 ALR 256. Any conformation of land which gives to surface water flowing from one tract to another a fixed and determinate course whereby it is discharged uniformly on the servient tract. 56 Am J1st Wat § 76.

natural easement. See **easement ex jure naturale.**

Naturale est quidlibet dissolvi eo modo quo ligatur. It is natural that any obligation should be released in the same manner in which it is made binding.

natural equity. Common honesty and right in a person's dealings with others.

naturales. (Roman law.) Illegitimate children born of a concubine.

See **fructus naturales.**

natural father. A real rather than a foster father; the father by birth in lawful wedlock rather than by legal adoption. The father of an illegitimate child. natural flow of stream.

See **natural state of stream.**

natural flow of surface water. That course which would be taken by surface water falling on the land of the upper proprietor or carried thereto from still higher land, and flowing or running therefrom onto the lands of the lower proprietor, undiverted and unaccelerated by any artificial interference therewith. *Le Brun v Richards*, 210 Cal 308, 291 P 825, 72 ALR 336.

natural fool. A person born without understanding; an idiot.

natural fruits. Also called *fructus naturales*,—the fruits and produce of perennial trees, bushes, and grasses. Crops produced by the powers of nature alone. 21 Am J2d Crops § 2.

natural gas. A mineral in the form of a vapor. 26 Am J2d Electr § 4. A gas, characterized by hydrocarbons in mixture, occurring naturally in the crust of the earth, obtained by drilling, and piped to cities and villages, industrial and commercial centers, for use in heating, illumination, and other purposes. 24 Am J1st Gas & O § 2. A commodity and property when reduced to possession. *West v Kansas Gas Co.* 221 US 229, 55 L Ed 716, 31 S Ct 564. For tariff purposes, crude bitumin or crude mineral. *United States v Buffalo Natural Gas Fuel Co.* 172 US 339, 43 L Ed 469, 19 S Ct 200.

Natural Gas Act. A comprehensive scheme of federal regulation of all sales of natural gas at wholesale in interstate commerce, whether by pipeline company or not, and whether occurring before, during, or after transmission by an interstate pipeline company. *Northern Natural Gas Co. v State Corp. Com.* 372 US 84, 9 L Ed 2d 601, 83 S Ct 646, reh den 372 US 960, 10 L Ed 2d 14, 83 S Ct 1011.

natural gas company. A company engaged in supplying natural gas for lighting, power, or other purposes to ultimate consumers. 26 Am J2d Electr § 4.

As used in the Natural Gas Act of June 21, 1938, a natural gas company means a person (including a corporation) engaged in the transportation of natural gas in interstate commerce or the sale in interstate commerce of such gas for resale. *Illinois Natural Gas Co. v Central Illinois Public Service Co.* 314 US 498, 86 L Ed 371, 62 S Ct 384.

See **gas companies.**

natural grade. The grade of a highway or street which has not been altered from that of the general lay of the land through which it runs.

natural guardian. See **guardian by nature; guardian by nurture.**

natural heirs. Heirs of the body, as distinguished from those entitled to succeed on intestacy. 23 Am J2d Deeds § 215. As the term is used in a will:—sometimes a term of limitation, sometimes the equivalent of issue or simply denoting certain individuals, sometimes meaning bodily heirs, the construction depending upon the context of the instrument and the surrounding circumstances. 57 Am J1st Wills § 1371. Sometimes meaning children, thereby excluding collateral heirs. 57 Am J1st Wills § 1368.

naturali laxitate. See in **naturali laxitate**.

natural impotency. Incurable impotency, not congenital incapacity for the sexual act. *Jordan v Jordan*, 93 Ill App 633 (ground of divorce); *Cofer v Cofer* (Tex Civ App) 276 SW2d 214.

natural increase of shares. An increase in the value of shares resulting from an increase in the earnings and profits of the corporation and a consequential increase in dividends. *Miller v Guerrard*, 67 Ga 284.

natural infancy. The state or condition of a child who is under seven years of age.

natural interruption. Under the civil law,—an interruption of a period of prescription, either by an entry into, and upon immovable things, or in taking away movables. *Innerarity v Heirs of Mims*, 1 Ala 660, 674.

naturalis possessio. See **possessio naturalis**.

naturalization. The conferring of the nationality of a state upon a person after birth, by any means whatsoever. 8 USC § 1101 (a) (23); *Re Marques*, 341 Mass 715, 172 NE2d 262. The act of adopting a foreigner and clothing him with the privileges of a native born citizen. *Boyd v Nebraska*, 143 US 135, 36 L Ed 103, 12 S Ct 375. An act involving the renunciation of a former citizenship and entrance into a similar relation towards a different body politic. *Boyd v Nebraska*, 143 US 135, 36 L Ed 103, 12 S Ct 375.

naturalization by marriage. The naturalization of an alien female upon her marriage to a citizen; the former rule in the United States, repealed by the Cable Act of 1922. 3 Am J2d Aliens § 116, note 5.

naturalization proceeding. A proceeding for the naturalization of an alien, which, while a judicial proceeding, is not an adversary proceeding, being merely a proceeding provided by statute for the administration of the naturalization laws in the case of an application for naturalization by an alien, wherein his fitness for citizenship may be determined. *Rein v United States*, 69 F2d 206.

naturalized citizen. A person who has been made a citizen of the United States under the authority of a federal statute. A citizen in truth, law, and fact; a citizen in every sense of the word. *Osborn v Bank of the United States* (US) 9 Wheat 739, 827, 6 L Ed 204, 225.

natural law. An abstract concept of law in accord with the nature of man. A rule which so necessarily

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agrees with the nature and state of man that, without observing its maxims, the peace and happiness of society can never be preserved. *Borden v State*, 11 Ark 519. Those fit and just rules of conduct which the Creator has prescribed to man, as a dependent and social being; and which are to be ascertained from the deductions of right reason, though they may be more precisely known, and more explicitly declared by divine revelation. *Wightman v Wightman* (NY) 4 Johns Ch 343, 348.

See **natural rights**.

natural liberty. A person's freedom to act as he may desire, excepting in so far as he is restrained or controlled by the laws of nature. See 1 Bl Comm 125.

natural life. A tautological expression.

The word "natural," in this connection, adds nothing to the meaning of the word "life," nor does it change it. Imprisonment for one's natural life is the same as imprisonment for life. The word "natural" may be rejected as superusage. People v Wright, 89 Mich 70, 93, 50 NW 792.

naturally. In the usual course of things. Mitchell v Clarke, 71 Cal 164, 11 P 882.

natural monuments. Natural objects, such as trees, stones, and the like used in designating and describing land boundaries. 12 Am J2d Bound § 4.

natural objects of bounty. Those members of a testator's family entitled on the face of things to his bounty.

natural obligation. A moral obligation. Re Atkins' Estate (CA5) 30 F2d 761. An obligation which rests wholly in conscience and which is not enforceable under the laws of mankind.

See **moral obligation.**

natural parent. A real parent as distinguished from an adoptive parent or foster parent. The father of a child born out of wedlock.

natural person. An individual; a private person, as distinguished from an artificial person, such as a corporation.

natural phenomena. The powers, forces, and operations of nature, such as the movement of the heavenly bodies, the annual rainfall, gravity, etc. 29 Am J2d Ev § 100. Natural occurrences, such as storms.

natural pond. A small body of fresh water, created without the aid or interference of man.

See **great ponds.**

natural possession. See **possessio naturalis.**

natural premium plan. A form of insurance, also called the "assessment plan" wherein the insurance company limited its assessments or premiums to such a sum as was necessary to cover the actual cost of insurance from one renewal period to another. Westerman v Supreme Lodge, Knights of Pythias, 196 Mo 670, 94 SW 470.

natural presumption. A presumption which arises when a fact is proved, wherefrom by reason of the connection founded on experience, the existence of another fact is directly inferred. Gulick v Loder, 13 NJL 68.

natural resources. The land, waters, and mineral resources. Things of value existing in nature, such as minerals, waterpower, productive soil, etc. natural result.

See **natural consequence.**

natural right. A right which exists regardless of municipal or other law, if not repealed by legal fiat. Sult v Gilbert, 148 Fla 31, 3 So 2d 729. A right inherent in land, such as that of lateral support, of the right to the benefit of the flow of a stream of water, of the right of an owner of land to have the surface water discharged upon the lower land of his neighbor, etc. 25 Am J2d Ease § 6. An inherent political right, founded on a common necessity and interest, such as the right to appropriate the property of a person to the great necessity of the whole community. 26 Am J2d Em D § 1. A right which, in its primary and strictest sense,

belongs to each person as a human being in a state of nature. *Re Morgan*, 26 Colo 415, 58 P 1071; *Bednarik v Bednarik*, 18 NJ Misc 633, 16 A2d 80. The right of self defense, a right which existed before the formation of society. 26 Am J1st Homi § 126. A fundamental right actually guaranteed by the constitution. 16 Am J2d Const L § 330. A right entitled to constitutional protection in addition to rights protected under the specific guaranty safeguarding a person in his life, liberty, or pursuit of happiness; for example the affection between parent and child, *Lacher v Venus*, 177 Wis 558, 188 NW 613, 24 ALR 403; for another example, the right to beget children. 16 Am J2d Const L § 330. According to some authority, a concept in the abstract, apart from constitutional rights. *Henry v Cherry*, 30 RI 13, 73 A 97.

natural science. See **science**.

natural state of stream. The condition of a stream of water under the ordinary operation of the physical laws which affect it. 56 Am J1st Wat § 19. The stage of water that ordinarily flows in the spring or other season of the year when the stream stands at the highest water mark. 56 Am J1st Wat § 19.

natural stream. See **natural watercourse**.

natural support. See **easement of natural support**.

natural use. The use of the water of a stream for purposes arising out of the necessities of life, such as household use and the watering of domestic animals. *Cowell v Armstrong*, 210 Cal App 218, 290 P 1036.

natural watercourse. Any well defined channel or arroyo in which surface waters flow in times of heavy rain, irrespective of the fact that the land is cultivated in dry seasons or that in certain places the water of the depression spreads out and no longer flows in a definite channel. Anno: 81 ALR 266. A river or other natural stream, as distinguished from an artificial channel. 56 Am J1st Wat § 6. A stream usually flowing in a particular direction, in a definite channel, and discharging into some other stream or body of water, exclusive of a course conducting surface water from a higher to a lower level. *Lambert v Alcorn*, 144 Ill 313, 33 NE 53.

A stream does not lose its character as a natural watercourse, because in times of drought the flow may be diminished, or temporarily suspended. It is sufficient if it is usually a stream of running water. *Barkley v Wilcox*, 86 NY 140, 143.

natural waters. A body or stream of water originating from natural as distinguished from artificial causes. 56 Am J1st Wat § 3.

natural year. A year comprising three hundred and sixty-five and one-fourth days. The period of time in which the earth completes one revolution around the sun.

Natura non facit saltum; ita nec lex. Nature does not make any leaps; neither does the law.

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Natura non tacit vacuum; nec lex supervacuum. Nature does not make a vacuum, nor does the law do anything superfluous.

natura rei. See **ex natura rei**.

nature. The quality of a thing; the disposition of a person. The totality of the universe.

nauclerus. (Civil law.) A shipowner; a shipmaster.

naufragium. Shipwreck.

naught. Bad, defective, or worthless.

naulage. The freight of a ship's passengers.

naulum. (Civil law.) Freight; fare; money paid for passage on a ship.

nauseam. See **ad nauseam**.

nauta. A sailor; a seaman; a mariner; the charterer of a ship.

nautical assessors. The name applied to experienced shipmasters, two in number, called to the assistance of the admiralty court in all difficult cases involving negligence, who sit with the judge during the argument and give their advice upon questions of seamanship or the weight of testimony. *The Empire* (DC Mich) 19 F 558, 559.

nautical mile. A marine mile; a linear measure of distance on the sea, equivalent to approximately 6,080 feet, the name being taken from the knots in a ship's log line. *Steamboat Co. v Fessenden*, 79 Me 140, 146.

The International Nautical Mile is 1.150779 statute miles.

nautico foenere. With marine interest,—that is, with interest at the very high rate which is charged on marine loans.

navagium. The service rendered by a tenant of carrying the goods of his lord by ship.

naval. Pertaining to the Navy.

See **Navy**.

Naval Academy. The United States Naval Academy at Annapolis, Maryland, for the education and training of cadets preparatory to their becoming officers of the Navy.

naval aircraft. Aircraft in the service of the Navy, in the Armed Services.

naval bounty. A bounty paid to induce enlistment in the Navy. 12 Am J2d Bount § 2. A bounty offered to the officers and crew of any ship of the Navy causing the destruction of an enemy vessel. *Porter v United States*, 106 US 607, 27 L Ed 286, 1 S Ct 539.

naval convoy. See **convoy**.

naval court martial. See **court martial**.

naval courts. English courts composed of naval officers and held in foreign countries to hear and determine cases involving the loss of English ships or grievances of their masters or crews.

naval lands. Areas of the public domain reserved for naval purposes. *Pan American Transport Co. v United States*, 273 US 456, 71 L Ed 734, 47 S Ct 416.

naval law. The rules and regulations governing officers and men of the Navy.

See **military law**.

naval officer. See **Navy**.

naval service. See **service in the Navy**.

naval station. A military station of the Navy. 36 Am J1st Mil § 6.

navigability. The quality of being navigable.

See **navigable waters**.

navigability in fact. The susceptibility of a river to use in its ordinary condition as a highway for commerce over which trade and travel are or may be conducted in the customary modes of trade and travel on water. Oklahoma v Texas, 258 US 574, 586, 66 L Ed 771, 42 S Ct 406, 411; Blackman v Mauldin, 164 Ala 337, 51 So 23.

navigable airspace. The air space above the minimum altitudes of flight prescribed by regulation issued under the Federal Aviation Act, including air space needed to insure safety in the takeoff and landing of aircraft. 49 USC § 1301 (24). The space above the space extending upward from the surface of land which is necessary for the full use and enjoyment of the land and the incidents of its ownership. 8 Am J2d Avi § 3.

navigable river. See **navigable waters**.

navigable waters. Rivers or other bodies of water used, or susceptible of being used in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water. Elder v Delcour, 364 Mo 835, 269 SW2d 17, 47 ALR2d 370. A stream or body of water having the capacity and suitability for the usual purpose of navigation, ascending or descending, by vessels such as are employed in the ordinary purposes of commerce, whether foreign or inland, and whether steam, sail, or other motive power. 56 Am J1st Wat § 179.

The test of navigability is whether the river, in its natural state, is used, or capable of being used, as a highway for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water. In the sense of the law, navigability is not destroyed because the watercourse is interrupted by occasional natural obstruction or portages; nor need the navigation be open at all seasons of the year, or at all stages of the water. Economy Light & Power Co. v United States, 256 US 113, 121, 65 L Ed 847, 854, 41 S Ct 409.

Navigability is a term of art, and often may be at variance with the usual and common conception of the meaning of the word. Under English common-law rules, waters were navigable which were salty or subject to the influence and flow of ocean tides, and all other waters were nonnavigable, irrespective of whether or not vessels of commerce or pleasure operated on them in fact. Anno: 47 ALR2d 385.

navigable waters of the United States. Those waters which are subject to the control of the Federal government for the regulation of commerce, and to which the Federal judicial power extends for the purpose of admiralty and maritime jurisdiction. The high seas and such lakes and streams as are navigable in fact, and which by themselves or their connection with other waters form a continuous channel or highway for commerce among the states or with foreign countries. 56 Am J1st Wat § 190.

navigate. To accomplish or participate in navigation.

See **navigation**.

navigation. The direction of a ship or aircraft in

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movement; plotting a course and steering by the course plotted. The steering, directing, or managing of a vessel by a person or persons on board. Ryan v Hook (NY) 34 Hun 185, 191.

To navigate an aircraft. See 49 USC § 1301 (25)(26).

Navigation Act. An English statute enacted in the reign of Charles the Second, which prohibited other countries from trading with the colonies of England.

navigation district. An improvement district organized for the purpose of improvement of navigation upon a watercourse or body of water or a specified portion of a watercourse or body of water.

navigation rules. See **rules of navigation.**

navis. A ship or vessel.

navis bona. A good ship; a vessel that is seaworthy.

Navy. A military body; one of the Armed Forces, inclusive of officers and men, ships, aircraft, and equipment. 36 Am J1st Mil § 4.

In connection with the transfer of the Navy of the Republic of Texas to the United States, the word was held to include the ships only, not the officers and men. Brashear v Mason (US) 6 How 92, 12 L Ed 357.

Navy Department. A part of the Department of Defense, having general supervision of the naval combat and service forces and such aviation as may be organic therein. 5 USC § 411a.

Navy personnel. Members of the Armed Forces in the United States Navy.

Navy Personnel Act. A federal statute enacted in 1899, providing primarily that commissioned officers of the line of the Navy and of the medical and pay corps should receive the same pay and allowances, except forage, as were or might be provided by or in pursuance of law for officers of corresponding rank in the Army. 36 Am J1st Mil § 69.

navy regulations. See **regulations of the navy.**

Navy yard. A place maintained and equipped for the construction or repair of vessels of the Navy.

naye. No. A negative vote in a legislative body.

nazeranna. A voluntary payment made to a government in recognition of the bestowal of a land grant or a public office.

Nazi. A contraction of the German term for National Socialist German Workers' Party headed by Adolph Hitler. A fascist or totalitarian in political belief. A derisive term.

N. E. Abbreviation of northeast.

See **fraction of section.**

ne. Not; lest.

ne admittas. Not to admit. A prohibitory writ which forbade the bishop to admit any clerk to a particular living pending the suit of a clerk to determine his right to the living. See 3 Bl Comm 248.

neap tide. The tide which occurs when the difference between high tide and low tide is the smallest; the tide which occurs at moon's quadrature with the sun. *Teschemacher v Thompson*, 18 Cal 11, 21.

near. A relative term in speaking of distance. *Kirkbride v Lafayette County*, 108 US 208, 27 L Ed 705, 2 S Ct 501. A relative term, as it appears in the description in a deed, sometimes the equivalent of "at," at other times importing the sense of "along." 23 Am J2d Deeds § 243.

near beer. A malt liquor containing so little alcohol that it will not produce intoxication, even though consumed in quantity. *State v Danenberg*, 151 NC 718, 66 SE 301.

nearest blood. Usually regarded as tantamount to next of kin. 57 Am J1st Wills § 1398.

nearest blood kin. Usually same as next of kin. 57 Am J1st Wills § 1398. Ordinarily, words of purchase. Anno: 100 ALR2d 1073, § 2[a].

nearest blood relatives. Usually, although not necessarily, the same as next of kin. 57 Am J1st Wills § 1398. Ordinarily words of purchase. Anno: 100 ALR2d 1073, § 2[a].

nearest heirs. A term of art, ordinarily constituting words of limitation; words of purchase where it appears that the testator used them, not with technical accuracy, but in artificially to denote particular persons. 28 Am J2d Est § 118; 57 Am J1st Wills § 1398.

There is some conflict in the cases as to the effect of the word "nearest" when prefixed to "heir" or a similar term in a testamentary gift. Some of the cases hold that such a phrase includes all the heirs at law of the testator, while others take the view that the word "nearest" confines the gift to heirs at law of the class standing nearest in blood to the testator, excluding all others. However, the variation in the phrases construed and the context in which they are used make it impossible to formulate a definite rule from the decisions. Anno: 11 ALR 329.

nearest kin. Usually tantamount to next of kin. 57 Am J1st Wills § 1398. Often words of purchase. 28 Am J2d Est § 118.

nearest male heir. A term which, when appearing in a will, indicates the testator's nearest male relative. 57 Am J1st Wills § 1398.

nearest of blood. Same as next of kin. Anno: 11 ALR 329.

nearest of kin. Usually tantamount to next of kin. 57 Am J1st Wills § 1398. The nearest relatives by blood. Anno: 11 ALR 331.

nearest relatives. Next of kin. 57 Am J1st Wills § 1398. Words of purchase. 100 ALR2d 1073,

nearsightedness. A condition in the eyesight of a person whereby only near objects are seen by him distinctly. Not a local or constitutional disease. Anno: 96 ALR 429.

neat. Tidy; clean. Unmixed, especially in reference to a drink of an alcholic beverage. In an older sense, net, that is after deductions.

neat cattle. Cattle which have the cloven or split hoof and which also chew their cud.

A cow has both of these attributes, a hog has the first, only, and a horse has neither of them. The term includes all animals of the bovine species. *Territory v Christman*, 9 NM 582, 58 P 343.

neat profits. An old term, now rare, for net profits.

ne baila pas. He did not deliver.

necation. A putting to death; a killing.

Nec curia deficeret in justitia exhibenda. Nor should the court be deficient in bestowing justice.

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necessaries. In respect of a parent's liability:—such things as are necessary to supply the personal needs of the infant, suitable shelter, food, clothing, medical attention, and whatever else is essential to the health and comfort of the child, including education. 39 Am J1st P & C § 37. Within the rule that an infant may bind himself for necessities:—those things which are reasonably necessary for the proper and suitable maintenance of the infant in view of his social position and situation in life, the customs of the social circle in which he moves, and the fortune possessed by him and by his parents, including, of course, such things as are obviously for the maintenance of existence. 27 Am J1st Inf § 17. Within the meaning of the liability of an insane person:—articles proper for the normal maintenance of the incompetent, the determination depending not merely on the nature of the articles but also upon their propriety and suitability for the incompetent, according to the circumstances and his condition of life. Belluci v Foss, 244 Mass 401, 138 NE 551. Within the meaning of a husband's duty to provide for his wife:—at common law, necessary food, drink, clothing, washing, medicine, instruction, and a suitable place of residence; with more liberality evidenced by more modern cases, looking to the means, ability, social position and circumstances of both husband and wife for the determination to be made in the particular case. 26 Am J1st H & W § 375. Repairs and supplies furnished a vessel, towage, use of dry dock or marine railway, for which the person furnishing is entitled to a maritime lien. 46 USC § 971.

A necessary article is one which the party actually needs. It is not enough to show that the article is per se classed as necessary, such as food and clothing. It must also be actually needed at the time. State v Thornton, 232 Mo 298, 134 SW 519.

Under the maritime law permitting the master of a ship to pledge the owner's credit for necessities, the word does not import absolute necessity, but the circumstances must be such that a reasonably prudent owner, present, would have authorized the expenditures, and it is usually sufficient if they are reasonably fit and proper, having regard to the exigencies and requirements of the ship, for the port where she is lying and the voyage on which she is bound. 48 Am J1st Ship § 133.

Within the meaning of exemption statutes, what are necessities must be largely a question of fact to be determined under the varying circumstances of each case. Goods furnished cannot be regarded as necessities for the family of the debtor where he is unmarried, nor where they are merely the means by which payment is made for what is necessary, as where they are furnished him on credit and used by him to pay his board precisely as if he were paying it in money. The decisions do not confine the term to articles of commerce, but extend it to include, as well, services rendered even of a professional character, such as medical services or legal services. 22 Am J1st Exemp § 106.

Necessarium est quod non potest aliter se habere. That is necessary which it is not possible to be otherwise.

necessarily used. Reasonably required in the exercise of sound business prudence. Anno: 80 ALR 253.

necessarius. Necessary; unavoidable; inevitable.

necessary. Adjective: Essential; indispensable; unavoidable. Canton v Canton Warehouse Co. 84 Miss 268, 36 So 266; Abraham v Ins. Co. of N. A. 117 Vt 75, 84 A2d 670, 29 ALR2d 783. In an obsolete sense, appropriate; convenient; useful; essential. M'Culloch v Maryland (US) 4 Wheat 316, 4 L Ed 579. Noun: A necessary thing, usually found in the plural in court opinions and legal literature.

See **necessaries**.

necessary accommodations of carrier. Accommodations reasonably suitable and useful to the public. Chicago I. & L. Ry Co. v Baugh, 175 Ind 419, 94 NE 571.

necessary and indispensable party. See **indispensable party; necessary party.**

necessary and proper clause. Clause 18 of Section 8 of Article I of the United States Constitution, granting to Congress the power to make all laws which shall be "necessary and proper for carrying into execution" specific powers granted to Congress in preceding clauses of the section.

necessary and proper laws. As a matter of the constitutional authority of Congress to pass laws:—not only such measures as are absolutely and indispensably necessary, without which the powers granted must fail of execution; but all appropriate means conducive or adapted to the end to be accomplished, and which in the judgment of Congress will most advantageously effect it. Legal Tender Case, 110 US 421, 28 L Ed 204, 4 S Ct 122.

necessary business expense. An expense which is appropriate and helpful. Blackmer v Commissioner (CA2) 70 F2d 255, 92 ALR 982.

See **ordinary and necessary expense.**

necessary deposit. A deposit of something on a person's land or premises which has been made by or on account of some unavoidable cause or accident; as, by vis major or in the case of the salvage of goods from fire.

necessary diligence. That degree of diligence which men ordinarily engaged and acquainted with a certain business will use in conducting such business as one of their own affairs. Sanderson v Brown, 57 Me 308.

necessary domicil. A domicil which is established by operation of law; as in the case of a wife who acquires the domicil of her husband, regardless of her choice. 25 Am J2d Dom § 48.

necessary easement. An easement consisting of a servitude constituting the only reasonable means of enjoying the dominant tenement. Cherry v Brizzolara, 89 Ark 309, 116 SW 668.

necessary expense of business. See **necessary business expense.**

necessary expense of public body. An expenditure which a municipality is reasonably required to make in order to carry on its work and perform its duties. Anno: 113 ALR 1204. Such an expense as is incurred in procuring those things without which the peace and order of the community, its moral interests, and the protection of property would suffer. Fawcett v Mt. Airy, 134 NC 125, 45 SE 1029.

As to the meaning of the term as used within an exception to a provision requiring a vote of the people to authorize the debt of a political body, see Anno: 113 ALR 1202.

necessary for public use. Reasonably necessary for use in a reasonable time under the circumstances of the particular case. 26 Am J2d Em D § 111.

See **public necessity and convenience.**

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necessary household furniture. Articles of household furniture which are indispensable or requisite for living in a convenient and comfortable manner. 31 Am J2d Exemp § 73.

necessary implication. A meaning derived from language as a matter of actual necessity or of so strong a probability of the intent of the writer or speaker that a contrary intent is not reasonably to be inferred. *Detroit Citizens' Street Railway Co. v Detroit* (CA6 Mich) 64 F 628.

necessary litigation. Unavoidable litigation. Litigation required for the protection of person or property.

Litigation is necessary in the sense of a statute providing that an executor or administrator shall be allowed reasonable attorneys' fees in any "necessary litigation" if such litigation is reasonable, useful and proper. *Re Feehely*, 182 Or 246, 187 P2d 156, 173 ALR 1334.

necessary municipal buildings. Buildings necessary to conduct the affairs of the city government. 26 Am J2d Em D § 40.

necessary party. A person without whom no judgment or decree determining the principal issues in the case can effectively be made; such a person as is necessary to a determination of the entire controversy. 39 Am J1st Parties § 5.

A party to the proceeding whose rights if not determined in that proceeding would be disturbed without due process of law; a party whose rights appear from the facts as they appear in the record to be involved in a determination of the issues before the tribunal. *State v Pacific Tel. & Tel. Co.* 144 Wash 383, 258 P 313. A person who must be joined as a party if he is within the jurisdiction. *McAndrews v Krause*, 245 Minn 85, 71 NW2d 153, 53 ALR2d 312. A party on appeal whose interests may be adversely affected by the decision on appeal. 4 Am J2d A & E § 276.

See **indispensable party**.

necessary repairs. Such repairs by a lessee as are necessary for the use of the leased premises by the tenant for the purposes for which they were leased. Anno: 45 ALR 24, s. 106 ALR 1361.

necessary rule. The rule of some jurisdictions in reference to the right of a grantee to an easement in a street or alley shown on a map or plat, where the conveyance to him is made with reference to such map or plat, that his right of user in the street or alley is limited to the abutting street or alley and such others as are necessary to give him access to a public highway. 25 Am J2d Ease § 26.

necessary tool. A tool or implement needed in the reasonable conduct of the debtor's trade, business, or profession. 52 Am J2d Exemp § 52.

necessary wearing apparel. Such articles of clothing or wearing apparel as are convenient and useful under the circumstances of the particular case. 31 Am J2d Exemp § 79. Clothing or dress which is convenient and comfortable, as distinguished from wearing apparel which is a luxury. *Towns v Platt*, 33 NH 345.

necessary work animal. A work animal which is indispensable, or merely reasonably necessary, convenient, or suitable, to the owner. 31 Am J2d Exemp § 70.

necessitas. Necessity; that which is inevitable or unavoidable; need; penury; poverty.

necessitas culpabilis. Culpable necessity, that necessity which excuses a man who kills another in self-defense. See 4 BI Comm 187.

Necessitas est lex temporis et loci. Necessity is the law of time and of place.

Necessitas excusat aut extenuat delictum in capitalibus, quod non operatur idem in civilibus. Necessity excuses or extenuates the offense in capital crimes, but it does not operate in the same manner in civil cases.

Necessitas facit licitum quod alias non est licitum. Necessity makes lawful that which otherwise would be unlawful.

Necessitas inducit privilegium. Necessity creates privilege.

Under this maxim, the common law excuses the commission of an act *prima facie* criminal if such act be done involuntarily, and under circumstances which show that the individual doing it was not really a free agent. Thus, if A by force take the hand of B, in which is a weapon, and therewith kill C, A is guilty of murder, but B is excused. Moral force, however, such as a threat of imprisonment will not excuse him. *State v Dowell*, 106 NC 722, 11 SE 525.

Necessitas inducit privilegium quoad jura privata. Necessity creates privilege with respect to private rights.

Necessitas non habet legem. Necessity has no law. *Heyfron v Mahoney*, 9 Mont 497, 24 P 93.

Necessitas publica major est quam privata. Public necessity is more important than private.

The welfare of the public is considered in law superior to the interests of individuals, and, when there is a conflict between them, the latter must give way. *Durham v Eno Cotton Mills*, 141 NC 615, 54 SE 453.

Necessitas quod cogit, defendit. Necessity defends that which it compels.

Necessitas sub lege non continetur, quia quod alias non est licitum necessitas facit licitum. Necessity is not restrained by the law, because that which otherwise is not lawful necessity makes lawful.

Necessitas vincit legem. Necessity supersedes law.

Necessitas vincit legem; legum vincula irridet. Necessity supersedes law; it laughs at the fetters of the law.

necessitate. See **ex necessitate**.

necessitate legis. See **ex necessitate legis**.

necessitate rei. See **ex necessitate rei**.

necessities. See **necessaries; necessity**.

necessitous. Pressed by poverty; needy; unable to procure what is necessary for one's station. Destitute. Anno: 36 ALR 872.

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necessitous circumstances. See **necessitous condition**.

necessitous condition. A condition of want of the necessities of life. 27 Am J1st H & W § 436. Destitution. The condition of one without adequate, sufficient, or reasonable means of support. 23 Am J2d Desert §§ 13, 14. The condition of a child in need of the necessities of life, which cover not only primitive physical needs, things absolutely indispensable to human existence and decency, but also those things which are in fact necessary to the particular person left without support; a condition of great need, extreme want, or poverty, or substantially the absence of means of securing the reasonable necessities of life, except through charity. 39 Am J1st P & C § 111. From the standpoint of a husband's liability for nonsupport, a relative term, the purpose of the statute under consideration and the conditions to which the husband and wife have been accustomed being determinative. 23 Am J2d Desert § 14.

necessity. A compulsion of natural forces or the forces of man. Less pompously, a toilet or water closet. Something necessary.

See **necessaries; public necessity; public necessity and convenience; way of necessity; work of necessity.**

necessity doctrine. A principle whereunder expressions of present pain are admissible in evidence on the issue of pain and suffering as an element of damages for personal injury, regardless of the person to whom they were made, notwithstanding their hearsay character. 22 Am J2d Damg § 309.

neck verse. A sentence in Latin required to be read by a convicted person in determining his right to the benefit of clergy.

Nec regibus infinita aut libera potestas. With kings, power should neither be unlimited nor free. See 1 Bl Comm 233.

Nec tempus nec locus occurrit regi. Neither time nor place bars or affects the king.

Nec veniam effuso sanguine, casus habet. Nor is there any occasion for indulgence where there is a shedding of blood.

Nec veniam, laeso numine, casus habet. There is no occasion for indulgence where majesty has been affronted.

Nec vi, clam, aut preario. Neither forcibly, secretly, nor by sufferance.

ne deficiat justitia. Lest justice fail.

Ne disseise pas. He was not disseised.

Ne disturba pas. He did not disturb,—the general issue pleaded in an action of quare impedit.

Ne dona pas. He did not give,—the general issue pleaded in a writ of formeden, which was a writ of right to recover lands according to the form of the gift or grant in tail.

nee. Born. A word conveniently used after the name of a married woman to indicate her maiden name, e.g. Esther Roe, née Doe.

need. A necessity. Something required but wanting.

As used in pension plans the term is a wholly relative term and there is no clear line of demarcation as to the requisite financial status of a particular recipient in order to justify the characterization of the benefit to him as charitable. Re Tarrant, 38 Cal 2d 42, 237 P2d 505, 28 ALR2d 419.

See **necessaries; needs of business.**

needful. Necessary.

As used in Article I, § 8, clause 17, of the Federal Constitution the term "needful buildings" has been held to embrace whatever structures are found to be necessary in the performance of the functions of the Federal Government. James v Dravo Contracting, 303 US 134, 82 L Ed 155, 58 S Ct 208, 114 ALR 318.

needless. Unnecessary, unjustifiable on the theory of necessity. Anno: 82 ALR2d 800, § 4.

needs of business. The amount of a product or material necessary for use in the business of a particular person. The requirements of a business in reference to a particular commodity. 46 Am J1st Sales § 135.

needy. Indigent, necessitous, very poor. Anno: 121 ALR 1007. Distressed by the want of means of living. Juneau County v Wood, 109 Wis 330, 333, 85 NW 387.

nee vife. Born alive.

ne exeat. A writ issued by a court of equity to restrain a person from going beyond the limits of the jurisdiction of the court, until he has satisfied the plaintiff's claim or has given bond for the satisfaction of the decree of the court. 38 Am J1st Ne Ex § 1.

Ne exeat regno. Do not let him leave the realm.

Ne exeat republica. Do not let him leave the state,—the name given to the writ of ne exeat in some of the states of the Union.

nefas. A wrongful, sinful, wicked, unlawful, or criminal act.

negare. To negative; to deny.

Negatio conclusionis est error in lege. The denial of a conclusion is error in law.

Negatio destruit negationem, et ambae faciunt affirmationem. A negative destroys a negative, and both together they make an affirmative.

Negatio duplex est affirmatio. A double negative is an affirmative.

negative averments. See **negativings defenses**.

negative community. A term of art. Used in reference to the political economy as it was when those things which were common to all belonged no more to one than to the others, and hence no one could prevent another from taking of these common things that portion which he judged necessary to subserve his wants.

While he was using them others could not disturb him, but when he had ceased to use them, if they were not things which were consumed by the fact of use, the things immediately re-entered into the negative community and another could not use them. See *Geer v Connecticut*, 161 US 519, 525, 40 L Ed 793, 795, 16 S Ct 600.

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negative condition. A condition against the occurrence of some event.

negative covenant. The usual form of restrictive covenant; a covenant which calls for refraining from certain acts or certain uses of property. 20 Am J2d Cov § 166.

negative easement. An easement, the effect of which is to preclude the owner of land subject to the easement from the doing of an act which if no easement existed, he would be entitled to do. *Northwestern Improv. Co. v Lowry*, 104 Mont 289, 66 P 792, 110 ALR 605. A true easement, the right granted being appurtenant to other land and not a mere personal right. 25 Am J2d Ease § 8.

negative evidence. Testimony that a fact did not exist or that a thing was not done, in other words testimony that denies rather than affirms. 30 Am J2d Ev § 1092. Testimony that one did not see or hear something, otherwise called testimony to negative knowledge. *Union P. R. Co. v Burnham* (CA10 Colo) 124 F2d 500.

"The trial judge practically told the jury that negative testimony was confined to that of a witness who, though present at a transaction, says that he did not see or hear." This is too limited a rule. Testimony which is positive in form may amount merely to negative testimony. *Smith v Milwaukee Builders & Traders' Exchange*, 91 Wis 360, 64 NW 1041.

The probative force of negative testimony depends largely upon circumstances. In some circumstances, its probative force may be so slight as to reach the vanishing point; in others, it may be more persuasive than the positive testimony of some witnesses. It is only when it is so clear that such testimony has no probative value whatever that reasonable men would not differ in their conclusions in reference thereto that courts are justified in disregarding it on the ground that it does not rise to the dignity of evidence. *Union Pacific R. Co. v Burnham* (CA 10 Colo) 124 F2d 500.

negative finding. A finding expressly or by necessary implication against the existence of a certain fact. 53 Am J1st Trial § 1143.

negative knowledge. The failure of a witness to see and hear that which he would supposedly have seen or heard if it had occurred. *Hoffard v Illinois Central Railroad Co.* 138 Iowa 543, 110 NW 446.

negative order. Hardly an appropriate term of art, since an order may be affirmative in fact, although negative in form. *Rochester Tel. Corporation v United States*, 307 US 125, 83 L Ed 1147, 59 S Ct 754.

negative order doctrine. A rule, generally repudiated by the Supreme Court of the United States, that a federal court had no jurisdiction to review an order of an administrative agency by which the agency merely refused to grant the relief sought. 2 Am J2d Admin L § 574.

negative plea. The terminology of equity for a pleading by the defendant which does not bring new matter of defense into the record but seeks to destroy the efficacy of the plaintiff's case by denying some single critical fact stated in the bill. 27 Am J2d Eq § 204.

negative pregnant. A qualified denial pregnant with the admission of a substantial fact not squarely denied, characteristically in the very words of the allegation denied. 41 Am J1st Pl § 196.

Where the plaintiff alleges the defendant to be a corporation organized under the laws of a named state or country, a denial that it is a corporation organized under those laws is pregnant with an admission that it is a corporation. *Wright v Fire Ins. Co.* 12 Mont 474, 31 P 87.

negative prescription. (Civil law.) The loss or forfeiture of a right, by the proprietor's neglecting to exercise or prosecute it during the whole period which the law hath declared to be sufficient to infer the loss of it. *Townsend v Jemison* (US) 9 How 407, 417, 13 L Ed 194, 198.

negative servitude. See **negative easement**.

negative statute. A statute which forbids or prohibits.

negative testimony. See **negative evidence**.

negative use. The use of a trademark for no purpose other than to prohibit another from using it. *United Drug Co. v Theodore Rectanus Co.* 248 US 90, 63 L Ed 141, 39 S Ct 48.

negativings defenses. Unnecessary anticipation of defenses, indicating want of skill in pleading a cause of action. 41 Am J1st Pl § 87. Usually unnecessary and inadvisable in drawing an indictment. 27 Am J1st Indict § 63.

In indictments, matters of defense need not, as a rule, be negatived, and where the statute creating the offense contains exceptions or provisos, not so incorporated with the clauses of the statute defining the offense that they enter into its description and are inseparable from it, the indictment need not set out that the defendants do not come within the exceptions or negative the provisos, but where the exceptions are stated in the clause which defines the offense, and are so incorporated with it that

one cannot be read without the other, or, if embodied in a subsequent clause, section, or statute, they are so incorporated with the words used to define the offense that they become a part of the definition, it is necessary, in the absence of statute, to negative them, so that the description of the offense in the indictment may correspond with the description and elements in the statute. *United States v Cook* (US) 17 Wall 168, 21 L Ed 538.

negativings exceptions. See **negativings defenses.**

negatoire. See **action negatoire.**

negatum. Denied.

Ne gist en le bouche. It does not lie in the mouth, it is not for one to say.

neglect. Verb: To omit to do or perform some work, act, or duty, required in one's business or occupation, or required as a legal obligation, such as that of making a payment. Noun: Omission to act or perform.

The word does not generally imply carelessness or imprudence, but simply an omission to do or perform some work, duty or act. *Rosenplaenter v Roessle*, 54 NY 262, 268.

neglected child. A child not cared for in the manner that the circumstances justly demand whether the failure lies in a wilful or unintentional disregard of duty, comprehending not alone a denial of that which is necessary to satisfy ordinary physical needs, but also the affection, guidance, and consideration required for the development of moral principles and ethical concepts in the mind of the child. 31 Am J Rev ed Juv Ct § 37.

A minor child who is not supplied with necessary medical and surgical care is "neglected" so as to

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subject the parents to the penalties imposed by law therefor. *Eggleston v Landrum*, 210 Miss 645, 50 So2d 364, 23 ALR2d 696.

An infant prevented by its parents from receiving a blood transfusion necessary to save its life or to prevent a permanent mental impairment is a "neglected child" within the meaning of a statute defining such child as one who "has not proper parental care" and authorizing transfer of custody of the child to an appointed guardian, although the parents have not failed in their duty in other respects. *People ex rel. Wallace v Labrenz*, 411 Ill 618, 104 NE2d 769, 30 ALR2d 1132.

neglect of child. The want of reasonable care of a child by the parent, that is, the omission of such steps as a reasonable parent would take, such as are usually taken in the ordinary experience of mankind, provided the parent has such means as would enable him to take the necessary steps. 39 Am J1st P&C§104.

See **wilful neglect of child.**

neglect of duty. The omission of one to perform a duty resting upon him. The neglect or failure on the part of a public officer to do and perform a duty or duties laid on him as such by virtue of his office or required of him by law. *State ex rel. Hardy v Coleman*, 115 Fla 119, 155 So 129, 92 ALR 988.

See **gross neglect of duty.**

neglect to prosecute. See **want of prosecution.**

negligence. A word of broad significance which may not readily be defined with accuracy. *Jamison v Encarnacion*, 281 US 635, 74 L Ed 1082, 50 S Ct 440. The lack of due diligence or care. A wrong characterized by the absence of a positive intent to inflict injury but from which injury nevertheless results. *Haser v Maryland Casualty Co.* 78 ND 893, 53 NW2d 508, 33 ALR 1018. In the legal sense, a violation of the duty to use care. *Fort Smith Gas Co. v Cloud (CAS Ark)* 75 F2d 413, 97 ALR 833.

The failure to perform an established duty which proximately causes injury to the plaintiff. Northern Indiana Transit v Burk, 228 Ind 162, 89 NE2d 905, 17 ALR2d 572. The failure to exercise the degree of care demanded by the circumstances; the want of that care which the law prescribes under the particular circumstances existing at the time of the act or omission which is involved. The omission to do something which a reasonable man, guided by those considerations which ordinarily regulate human affairs, would do, or doing something which a prudent and reasonable man would not do. 38 Am J1st Negl § 2. More particularly, the failure of one owing a duty to another to do what a reasonable and prudent person would ordinarily have done under the circumstances, or doing what such person would not have done, which omission or commission is the proximate cause of injury to the other. 28 Am J1st Negl § 2.

A negligent act is one from which an ordinarily prudent person would foresee such an appreciable risk of harm to others as to cause him not to do the act, or to do it in a more careful manner. Haralson v Jones Truck Lines, 223 Ark 813, 270 SW2d 892, 48 ALR2d 248.

What constitutes "operation" or "negligence in operation" within statute making owner of motor vehicle liable for negligence in its operation. Anno: 13 ALR2d 378.

negligence as a matter of law. An undisputed fact or facts, so conclusive of negligence in conduct or omission in violation of a standard of care which is clear in its requirements and in its application to the case, that there is no question to be submitted to the jury and the court must declare that negligence is established. 38 Am J1st Negl § 344.

See **negligence per se.**

negligence of bailee. The failure of a bailee to exercise that degree of diligence and care in respect to the property in his possession under the bailment which the nature of his employment, the character of the bailment, and the attendant circumstances make it reasonable to expect of him. 8 Am J2d Bailm § 198.

negligence per se. Literally, that which is negligence in itself. Negligence without question, negligence involving no debatable issue as to its existence, because the law, ordinarily the law in the form of statute or ordinance, has established the duty of the defendant toward the plaintiff which has been violated by the defendant to the injury of the plaintiff. 38 Am J1st Negl § 158.

Negligence per se results from a breach of a positive standard of conduct imposed by statute. Lavalle v Kaupp, 240 Minn 360, 61 NW2d 223.

negligent. Being guilty of negligence.

See **negligence.**

negligent escape. An escape occurring without the consent of, but through the carelessness of, the officer entrusted with the custody of the prisoner. Adams v Turrentine, 30 NC (8 Ired L) 147, 150.

negligent homicide. Causing the death of a person, without apparent intent to kill, but in doing an unlawful act or performing a lawful act in a careless or negligent manner, the danger of causing death being apparent. Barfield v State, 118 Tex Crim 394, 43 SW2d 106. The offense under modern statutes of the operation of a motor vehicle in reckless disregard of the safety of others, thereby causing the death of another. 7 Am J2d Auto § 291. Gross or culpable negligence in operating or driving a vehicle of any kind whereby a person is killed. 7 Am J2d Auto § 292.

See **manslaughter.**

negligentia. (Civil law.) Negligence; carelessness.

Negligentia semper habet infortunium comitem. Negligence always has misfortune for a comrade.

negligent waste. Same as **permissive waste.**

negotiability. A technical term derived from the usage of merchants and bankers in transferring bills of exchange and promissory notes. 11 Am J2d B & N § 2. The most vital and distinctive characteristic of a negotiable instrument, the term importing a transferable quality in the instrument to which it is applied; a quality of easy or simple transferability by any possessor; a quality of transferability which permits the transferee to take free of equities and defenses which could be asserted against the transferor of the instrument. 11 Am J2d B & N § 2. A quality turning entirely upon the form of the instrument and the terms in which it is expressed. 11 Am J2d B & N § 2.

negotiable. Having the quality and requisites of negotiability. 11 Am J2d B & N § 2.

negotiable bill of lading. A bill of lading in which it is stated that the goods are consigned or destined to the order of any person named in such bill. Uniform Bills of Lading Act §§ 4, 5. A bill of lading

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according to the terms of which the goods are to be delivered to bearer or to the order of a named person, or where recognized in overseas trade, if it runs to a named person or assigns. UCC § 7-104.

negotiable bonds. Bonds issued by private corporations, payable to order or bearer, whether the interest coupons are attached or detached. 12 Am J2d Bonds § 51. Bonds issued by the United States, the states, municipalities, and other political subdivisions which are payable to order or bearer. 43 Am J1st Pub Sec § 161.

negotiable coupons. The interest coupons attached to bonds upon the issuance of the bonds, payable to order or bearer upon their face without reference to any other paper. 12 Am J2d Bonds § 56. 43 Am J1st Pub Sec § 164.

negotiable instrument. Literally, an instrument having the transferable quality known as negotiability. An instrument, constituting a valid contract, for the payment of money in a certain, definite sum, to order or bearer, on demand, at sight, or in a certain time, or on the happening of an event which must occur, and payable absolutely, not on a contingency. 11 Am J2d B & N § 56. An instrument in writing signed by the maker or drawer; containing an unconditional promise or order to pay a sum certain in money; payable on demand, or at a fixed or determinable future time; payable to order or to bearer; and where addressed to a drawee, the latter is named or otherwise indicated with reasonable certainty. Uniform Negotiable Instruments Law § 1; Anno: 44 ALR2d 57, § 11. An instrument signed by the maker or drawer; containing an unconditional promise or order to pay a sum certain in money and no other promise, order, obligation, or power given by the maker or drawer except as authorized by statute; payable on demand or at a definite time; and payable to order or to bearer. UCC § 3-104(1). A bill of exchange, draft, check, promissory note, certificate of deposit, bearer bond, or other instrument to which there is extended the quality of negotiability by the Uniform Commercial Code or other statute. 11 Am J2d B & N § 6.

Negotiable Instruments Act. An attempt to codify the entire field of the law of negotiable instruments. One of the uniform acts. A uniform act specifically repealed by the Uniform Commercial Code. 15 Am J2d Com C § 6. A form of statute promulgated in 1896 by the National Conference of Commissioners on Uniform State Laws, based on the British Bills of Exchange Act of 1882, it being an outgrowth of many years of effort on the part of bar associations, jurists, publicists, bankers, and responsible men of business generally to secure uniformity in the law relating to negotiable instruments. Adopted over a period of about 30 years in all of the states-in the majority of them substantially, if not exactly, in the form promulgated by the commissioners. 11 Am J2d B & N § 41. Presently in force in all states except where it has been superseded by the Uniform Commercial Code.

negotiable note. A promissory note having all the requisites of negotiability. Graphically, "a courier without luggage, whose countenance is its passport."

See **negotiable instrument.**

negotiable paper. See **negotiable instrument.**

negotiate. To effect a negotiation. To attempt to effect the negotiation of a contract.

See **negotiation of contract; negotiation of instrument.**

negotiation of contract. The carrying on of a correspondence by letters and telegrams or the conducting of conversations in attempting to arrive at an agreement and contract. 17 Am 12d Contr § 25. The advertising and bids in the award of a public contract.

An order having authorized a finance committee to "negotiate" notes for the city's benefit, the word "negotiate" was held to be sufficient to include the entire transaction of asking for bids, or ascertaining the discount by private inquiry, and of deciding on the amounts, the rate, and the time on which the notes should be given. *Brown v Newburyport*, 209 Mass 259, 95 NE 504.

negotiation of instrument. The transfer of a negotiable bill or note by a first or subsequent holder to a successor holder. 11 Am J2d B & N §§ 309, 310. The transfer of a negotiable instrument from one person to another in such manner as to constitute the transferee the holder thereof. Uniform Negotiable Instruments Law § 30. To indorse and deliver a bill or note to another so that the right of action thereon shall pass to the indorsee or holder. *Weckler v First Nat. Bank*, 42 Md 581. The transfer of a negotiable instrument in such manner as to preserve independence of equities on the part of the holder receiving it. 11 Am J2d B & N § 312. The transfer of a bill, note or any instrument in such form that the transferee becomes a holder. UCC § 3-202(1), and Comment 1. The transfer of a negotiable instrument in due course. *Edgar v Haines*, 109 Ohio St 159, 141 NE 837, 38 ALR 795.

There can be no "negotiation" of a nonnegotiable instrument. *Tool v Anderson*, 116 Ind 88, 18 NE 445.

negotiant. Same as **negotiator**.

negotiator. One who negotiates for the purpose of entering into a contract or agreement, sometimes one who specializes in conducting negotiations for others for the same purpose. *Banta v Chicago*, 172 Ill 204, 50 NE 233. The person who negotiates a negotiable bill or note.

negotiorum gestor. (Civil law.) A person who does business,—a self-appointed agent who assumed the transaction of the business of another person, with no authority to do so.

negotium. (Roman law.) Business; occupation; employment; a business transaction; a money transaction; an affair.

Negro. A person of the black race dominating in equatorial Africa. In some jurisdictions a person of mixed blood descended from Negro ancestry from the third generation inclusive, although one ancestor of each generation may have been a white person. *Frasher v State*, 3 Tex App 263.

The word as used in a miscegenation statute that does not define it, has been construed to mean only negroes of the full blood, and not octoroons, mulattoes, and persons of mixed blood. 35 Am J1st Mar § 146.

As to negro or colored person within restrictive covenant, see Anno: 3 ALR2d 494.

NE. Abbreviation of **northeast**.

N. E. I. An abbreviation of **Non est inventus**.

neife. A female villein. See 2 Bl Comm 94.

neighborhood. A region, area, or territory of local significance, characterized by people living in it as neighbors; a local community. State v Hughes, 82 Mo 86, 89.

As the term is used in the common-law definition of trial by jury, the members of which were summoned from the visne or neighborhood, the word means the county where the act was committed. See People v Powell, 87 Cal 348, 25 P 481.

neighborhood benefit. A benefit accruing from a public improvement to a certain definite district by reason of its location in reference to the improvement. 27 Am J2d Em D § 367.

neighborhood road. Indiana terminology; a public highway, under the jurisdiction of the local authorities, opened and kept in repair by the public, for which land may be taken under the right of eminent domain. Kissinger v Hanselman, 33 Ind 80, 81.

neighborhood school policy. The policy of school authorities under which all children to be educated in public schools are required to attend a public school in their neighborhood. Taylor v Board of Education (CA2 NY) 294 F2d 36, cert den 368 US 940, 7 L Ed 2d 339, 82 S Ct 382.

neighboring property. Adjoining property or property in the immediate vicinity.

ne injuste vexes. You may not oppress unjustly; an ancient writ in the nature of a writ of right which lay where the tenant in fee simple and his ancestors had held of the lord by certain services, and the lord had obtained seisin of more or greater services than were due, to reduce them to their proper standard. See 3 Bl Comm 234. See also State v Commissioner of Roads, 8 SCL (1 Mill Const) 55.

neither. Not one or the other of two persons or things.

ne luminibus officiatur. (Civil law.) An easement or servitude which entitled its owner to receive unobstructed light in his house.

nem. con. An abbreviation of **nemine contradicente**.

nemine contradicente. No one saying the contrary; none dissenting.

Neminem laedit qui jure suo utitur. One who makes a lawful use of his own property thereby injures no one. Graham v St. Charles Street Railroad Co. 47 La Ann 214, 16 So 806.

Neminem oportet esse sapientiorem legibus. No one ought to be wiser than the laws.

nemo. No man; no one; nobody.

Nemo admittendus est inhibilitare seipsum. No one is permitted to stultify himself. Coody v Coody, 39 Okla 719, 136 P 754.

Nemo agit in seipsum. No one acts against himself.

Nemo alienae rei, sine satisdatione, defensor idoneus intelligitur. (Roman law.) No one is regarded as a property protector of the property of another, without security.

Nemo alieno nomine lege agere potest. (Civil law.) No one can sue in the name of another.

Nemo aliquam partem recte intelligere potest, antequam totum iterum atque iterum perlegerit. No one can rightly understand any part before he has read over the whole again and again.

Nemo allegans suam turpitudinem audiendus est. No one should be permitted to testify as to his own baseness or wickedness. The United States v Leffler (US) 11 Pet 86, 94, 9 L Ed 642, 645.

Nemo allegans turpitudinem suam, est audiendus. No one asserting his own wickedness should be heard. A Roman-law maxim. People v Coffey, 161 Cal 433, 119 P 901.

Nemo beneficium suum perdat, nisi secundum consuetudinem antecessorum nostrorum et per judicium parium suorum. No one shall lose his right, unless according to the custom of our ancestors, and by the judgment of his peers. See 3 Bl Comm 350.

Nemo his punitur pro eodem delicto. No one is twice punished for the same offense. See 4 Bl Comm 315.

Nemo his vexari pro eadem cause. No one is to be twice tried for the same cause. State v Lee, 65 Conn 265, 30 A 1110.

Nemo bis vexari pro una et eadem cause. No one shall be twice tried for one and the same cause. United States v Throckmorton (US) 8 Otto 61, 25 L Ed 93.

Nemo cogitationis poenam patitur. No one shall suffer punishment by reason of his thoughts.

Nemo cogitur rem suam vendere, etiam justo pretio. No one is compelled to sell his property, even at a fair price.

Nemo contra factum suum venire potest. No one can go against his own act or deed. New York Continental Jewel Filtration Co. v Jones, 37 App DC 511.

Nemo damnum facit, nisi qui id fecit quod facere jus non habet. No one does harm except the person who does that which he has no right to do.

Nemo dare potest quod non habet. No one is able to give that which he has not.

Nemo dat qui non habet. No one gives who has not. Hendrie v Sayles, 98 US 546, 25 L Ed 176.

Nemo dat quod non habet. No one can give that which he has not. Mitchell v Hawley (US) 16 Wall 544, 21 L Ed 322, 324.

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Nemo debet aliena jactura locupletari. No one ought to be enriched by the loss of another.

Nemo debet bis puniri pro uno delicto. No one ought to be punished twice for one offense.

Nemo debet bis vexari eadem causa. No one ought to be twice tried for the same cause.

Nemo debet bis vexari pro eadem causa. No one ought to be twice tried for the same cause. Womach v St. Joseph, 201 Mo 467, 100 SW 443.

Nemo debet bis vexari pro una et eadem causa. No one ought to be twice sued for one and the same cause. Hunt v Darling, 26 RI 480, 59 A 399.

Nemo debet bis vexari si constet curiae quod sit pro una et eadem causa. No one ought to be sued twice if it appears to the court that it is for one and the same cause.

Nemo debet esse judex in propria causa. No one ought to be a judge in his own case. People v O'Brien, 111 NY 1, 18 NE 692.

Nemo debet ex alieno damno lucrari. No one ought to profit out of the loss of another.

Nemo debet immiscere se rei alienae ad se nihil pertinenti. No one ought to obtrude himself in the business of another which is of no concern to himself.

Nemo debet in communione invitus teneri. No one ought to be kept in a partnership against his will United Ins. Co. v Scott & Seaman (NY) 1 Johns 106, 113.

Nemo debet locupletari aliena jactura. No one ought to be made rich by another's loss. Green v Biddle (US) 8 Wheat 1, 83, 5 L Ed 547, 567.

Nemo debet locupletari ex alterius incommodo. No one ought to be enriched at the expense of another. Berry v Stigall, 253 Mo 690, 162 SW 126.

Nemo debet rem suam sine facto aut defectu suo amittere. No one ought to lose his property without any fault of his own.

Nemo de domo sua extrahi debet. (Civil law.) No one ought to be dragged out of his own house.

Nemo duobus utatur officiis. No one should occupy two offices.

Nemo ejusdem tenementi simul potest esse haeres et dominus. No one can be the heir and the lord of the same tenement at the same time.

Nemo enim aliquam partem recte intelligere possit antequam totum iterum atque iterum perlegerit. No one can rightly understand any part before he has read the whole over and over again.

Nemo est haeres viventis. No one is the heir of a person who is alive. Heath v Hewitt, 127 NY 166, 27 NE 959.

Nemo est supra leges. No one is above the laws.

Nemo ex alterius facto praegravari debet. No one ought to be oppressed by the act of another.

Nemo ex consilio obligatur. No one is obligated by reason of giving advice.

Nemo ex dolo suo proprio relevetur, aut auxilium capiat. No one is relieved by, or gains advantage from, his own fraud.

Nemo ex proprio dolo consequitur actionem. No one by his own fraud or wrong acquires a right of action. Wright v Orange & Passaic Valley Railway Co. 77 NJL 774, 73 A 517.

Nemo ex suo delicto meliorem suam conditionem facere potest. (Civil law.) No one can make his situation better by his own wrongful act. Whitlock v Auburn Lumber Co. 145 NC 120, 58 SE 909.

Nemo in alium potest transferre plus juris quam ipse habet. No one can transfer to another any better right or title than he himself has.

Nemo inauditus condemnari debet, si non sit contumax. No one ought to be condemned, without having been heard, unless he is contumacious.

Nemo in propria causa judex esse debet. No one ought to be a judge in his own cause.

Nemo in propria causa testis esse debet. No one ought to be a witness in his own cause. Sesler v Montgomery, 78 Cal 486, 19 P 656.

Nemo invitus compellitur ad communionem. No one who is unwilling is forced into a joint possession. See 2 Bl Comm 185.

Nemo jus sibi dicere potest. No one can establish law for himself.

Nemo miles adimatur de possessione sui beneficii, nisi convicta culpa, quae sit laudanda per judicium parium suorum. No soldier is to be deprived of the possession of his benefice, unless convicted of wrongdoing, which must be declared by the judgment of his peers. 2 Bl Comm 285.

Nemo militans Deo implicitur secularibus negotiis. No one engaged in fighting for God should be bothered by secular business.

Nemo nascitur artifex. No one is the born master of an art.

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Nemo patriam in qua natus est exuere, nec ligantiae debitum ejurare possit. No one can renounce his native country, nor abjure his obligation of allegiance. Inglis v Trustees of Sailor's Snug Harbor (US) 3 Pet 99, 7 L Ed 617.

Nemo plus commodi heredi suo relinquit quam ipse habuit. (Civil law.) No one leaves behind a greater advantage for his heir than he himself had.

Nemo plus juris ad alienum transferre potest, quam ipse habet. No one can transfer to another any greater right than he himself has.

Nemo plus juris in alium transferre potest quam ipse habet. No one can convey a better title than he himself has. Wasserman v Metzger, 105 Va 744, 54 SE 893.

This was a maxim of the civil law, and it is a principle of the English common law that a sale out of market overt did not change the property from the rightful owner. Ventress v Smith (US) 10 Pet 161, 175, 9 L Ed 382, 387.

Nemo potest contra recordum verificare per patriam. No one can prove by the country contrary to a record.

Nemo potest esse dominus et haeres. No one can be both owner and heir.

Nemo potest esse et dominos et tenens. No one can be both landlord and tenant. Liebschutz v Moore, 70 Ind 142.

Nemo potest esse simul actor et judex. No one can be both the plaintiff and the judge at the same time.

Nemo potest esse tenens et dominos. No one can be both the tenant and the landlord.

Nemo potest exuere patriam. No one can renounce his country. *Inglis v Trustees of Sailor's Snug Harbor* (US) 3 Pet 99, 159, 7 L Ed 617, 638.

Nemo potest facere per alium quod per se non potest. No one can do through another that which he cannot do by himself.

Nemo potest facere per obliquum quod non potest facere per directum. No one can do by circumlocution that thing which he is not permitted to do directly. *Cummings v Missouri* (US) 4 Wall 277, 18 L Ed 356, 363.

Nemo potest mutare consilium suum in alterius injuriam. No one can change his purpose to the injury of another.

Nemo potest patriam exuere. No one can cast off his country. See 1 Bl Comm 370.

Nemo potest plus juris ad alium transferre quam ipse habet. No one can convey or transfer to another any greater right than he himself has.

Nemo potest sibi debere. No one can be indebted to himself.

Nemo praesens nisi intelligat. No one is present unless he understands.

Nemo praesumitur alienam posteritatem suae praetulisse. No one is presumed to have preferred the posterity of another person to his own.

Nemo praesumitur donare. No one is presumed to have made a gift. *Haven v Foster*, 9 Mass (9 Pick) 112.

Nemo praesumitur esse immemor suae aeternae salutis, et maxime in articulo mortis. No one is presumed to be unmindful of his own eternal salvation, and especially at the point of death.

Nemo praesumitur ludere in extremis. No one is presumed to be jesting while at the point of death.

Nemo praesumitur malus. No one is presumed to be wicked.

Nemo prohibetur plures negotiations sive artes exercere. No one is prohibited from engaging in several or various businesses or arts.

Nemo prohibetur pluribus defensionibus uti. No one is prohibited from employing several defenses.

Nemo prudens punit ut praeterita revocentur, sed ut futura praeveniantur. No prudent person punishes in order that past transactions may be revoked, but he does so in order that future acts may be prevented.

Nemo punitur pro alieno delicto. No one is punished for the crime of another.

Nemo punitur sine injuria, facto, seu defalta. No one is punished without some wrong, act, or fault.

Nemo qui condemnare potest, absolvere non potest. No one who can convict is unable to acquit.

Nemo sibi else judex vel suis jus dicere debet. No one ought to be his own judge or to lay down the law for his own family.

Nemo sine actione experitur, et hoc non sine breve sive libello conventionali. No one goes to law without a cause of action, and he does not do so without a writ or bill.

Nemo suo statuto ligatur necessitatibus. It is inevitable that no one can break his own statute. Kawanananakoa v Polyblank, 205 US 349, 353, 51 L Ed 834, 836, 27 S Ct 526.

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Nemo tenebatur prodere seipsum. No one was bound to appear against himself. See 4 Bl Comm 296.

Nemo tenetur ad impossibile. No one is bound to that which is impossible.

Nemo tenetur ad impossibilia. No one is bound to do things which are impossible.

Nemo tenetur armare adversarium contra se. No one is bound to arm his adversary against himself.

Nemo tenetur armare adversarium suum contra se. No one is bound to arm his adversary against himself. Larson v Salt Lake City, 34 Utah 318, 97 P 483.

Nemo tenetur divinare. No one is bound to divine the future.

Nemo tenetur edere instrumenta contra se. (Roman law.) No one is bound to produce instruments or writings which are against himself.

Nemo tenetur informare qui nescit, sed quisquis scire quod informat. No one who is ignorant is bound to give information, but everyone is bound to know that concerning which he gives information.

Nemo tenetur jurare in suam turpititudinem. No one is bound to give testimony in regard to his own turpitude.

Nemo tenetur prodere seipsum. No one is bound to betray himself.

nemo tenetur seipsum accusare. No one shall be compelled to accuse himself. 58 Am J1st Witn § 36.

Nemo tenetur seipsum infortuniis et periculis exponere. No one is bound to expose himself to misfortunes and dangers.

Nemo tenetur seipsum prodere. No one is bound to betray himself. Ex parte Senior, 37 Fla 1, 19 So 652.

Nemo testis esse debet in propria causa. No one ought to be a witness in his own cause. See 3 Bl Comm 371.

Nemo unquam judicet in se. No one ever renders a decision in his own case.

Nemo unquam vir magnus fuit sine aliquo divino afflato. No one was ever a great man without some divine inspiration.

Nemo videtur fraudare eos qui sciunt, et consentiunt. (Civil law.) No one is deemed to defraud those persons who have knowledge and give their consent.

nemy. Not

neon. A colorless and inert gas.

neon sign. An advertising sign characterized by illumination by the use of tubes filled with neon.

nephew. The son of one's brother or sister. A relative in the third degree according to the civil-law method of computing degrees of kinship which prevails in most American jurisdictions. 23 Am J2d Desc & D § 48. As used in a will, sometimes, but not always, inclusive of a grandnephew. 57 Am J1st Wills § 1390.

nephews and nieces. The immediate male and female descendants of the brother or sister of the person named; not inclusive of grand-nephews and grandnieces or more remote descendants. Estate of Woodward, 117 NY 522, 23 NE 120. Sometimes construed as inclusive, at other times as exclusive, of the half blood, the construction depending upon the context of the instrument in which the term appears. Anno: 49 ALR2d 1375.

ne plus ultra. Not to be exceeded. The highest. The greatest.

nepotism. The appointment to public office or public position of a person related within a degree prescribed by statute to the appointing officer or his associate in office. 42 Am J1st Pub Of § 98.

Neque leges neque senatus consults its scribi possunt ut omnis casus qui quandoque in sedirint comprehendatur; sed sufficit ea quae plaerumque accident contineri. Neither laws nor acts of a legislature can be so written as to include all actual or possible cases; but it is sufficient if they provide for those things which frequently or ordinarily may happen. State v Butts, 111 Fla 630, 149 So 746, 89 ALR 946.

Neque verbis praescriptis solemnibus vestitum est, neque facto aut datione rei transit in contractum innominatum. That which has neither been clothed in prescribed, solemn words, nor by any act or matter of gift, passes into an implied contract. See 2 Bl Comm 445.

Ne quid respublica detriments capiat. (Latin.) That the state suffer no harm.

Ne quis plus donasse praesumatur quam in donatione expresserit. Lest anyone should be presumed to have given more than he expressed in his grant.

ne recipiatur. Lest it should be received,—a caveat or caution given to an officer by one of the parties to an action instructing him not to receive the papers of an adverse party.

Ne Rector Prosternet Arbores. The rector is not to fell trees,—the title of an English statute enacted in the reign of Edward the First, directed against the felling of trees in churchyards by parsons.

ne relese pas. He did not release.

nervous disorder. An affliction of the nervous system.

nervous shock. Agitation and emotional tension of an acute nature, for the time rendering one incapable of deliberate action, sometimes operating through parts of the physical organism to produce bodily illness. Dulieu v White & Sons (Eng) 2 KB 669, 17 Times L R 555.

net. Noun: A device woven from cord or string and used to catch fish. 35 Am J2d Fish § 47. That which remains after the deduction of all charges or outlay, as net profit. St. John v Erie Railway Company (US) 22 Wall 136, 22 L Ed 743. Adjective: Characterizing that which is left after deductions.

net balance. As applied to the proceeds of a sale, the balance of the proceeds after deducting the expenses incident to the sale. Evans v Waln, 71 Pa St 69, 74.

net capital stock. The difference between the total assets and the total liabilities of a corporation.

It may be in the form of three items: (1) Capital, which represents the original amount contributed in money or property or services; (2) surplus, which represents the earlier undistributed profits; and (3) undivided profits, which are the later, and usually smaller, undistributed profits. Anno: 45 ALR 1505.

net cash. Cash without the allowance of a discount. Dow Chemical Co. v Detroit Chemical Works, 208 Mich 157, 175 NW 269, 14 ALR 1200. The price of an article after discount deducted. The condition of payment by the purchaser before the seller is under obligation to deliver. 46 Am J1st Sales § 202.

net cash ten days. Payment due ten days from delivery of the goods to the purchaser. 46 Am J1st Sales § 202.

net earnings. The gross receipts of a business less operating expenses. A term often considered as the equivalent of net profits.

See **net profits.**

net estate. The estate of a decedent after deduction of debts, funeral expenses, and expenses of administration.

A statutory provision that the share of a testator's widow electing to take against the will shall not exceed one-third of his "net" personal estate, refers to that part of the estate which remains after payment of all charges against the entire estate including federal estate taxes. Re Uihlein's Will, 264 Wis 362, 59 NW2d 641, 38 ALR2d 961.

See **taxable estate.**

net gains. Profits; net earnings; the excess of receipts over expenditures. Connolly v Davidson, 15 Minn 519.

nether house of parliament. The lower house, the house of commons of the English parliament.

net income. Income by way of earnings, interest, or rent after the payment of taxes, insurance, expenses of maintenance and repairs, etc. Anno: 128 ALR 234.

See **taxable income.**

net income, proceeds, and profits. For most purposes, nothing more nor less than "net income." Dumaine v Dumaine, 301 Mass 214, 16 NE2d 625, 118 ALR 834.

net operating loss. A tax-law term for the excess of deductions, subject to certain statutory modifications, over the gross income. Mesaba-Cliffs Mining Co. v Commissioner (CA6) 177 F2d 201.

net operating loss carry over. A net operating loss sustained in one year used to reduce the taxable income of another year. IRC § 832(c)(10).

net premium. The amount of the premium on a life insurance policy less the dividend to which the insured is entitled. Technically, the cost of insurance; the premium charged less the loading for expenses and certain contingencies. Fox v Mutual Ben. Life Ins. Co. (CA8 Mo) 107 F2d 715.

net price. The price of real estate, stock, or grain, sold by a broker, in excess of the commissions of the broker and other expenses of sale.

net proceeds of sale. The proceeds of a sale less charges which may rightfully be deducted by the custodian or agent making the sale. Becker Steel Co. v Cummings, 296 US 74, 80 L Ed 54, 56 S Ct 15.

net profit. The difference between the end cost of a commodity or a security and the selling price after allowing for the expenses of sale. The gain which accrues on an investment after deducting expenses and losses. MacCulsky v Klosterman, 20 Or 108, 25 P 366. In the language of a bookkeeper, the balance which remains after deduction from gross earnings or profits. Harvey v Missouri Valley Electric Co. (Mo) 268 SW2d 820, 49 ALR2d 1124. The net earnings of a corporation applied to the payment of dividends to stockholders. 19 Am J2d Corp § 805.

The meaning of this term varies according to the context in which and the circumstances under which the words are used. Harvey v Missouri Valley Electric Co. (Mo) 268 SW2d 820, 49 ALR2d 1124.

net rental. Rental over and above all expenses. Perkins v Kirby, 39 RI 343, 97 A 884.

net rents, issues, income and profits. For most purposes, the same as net income. Ash v Ash, 126 NJ Eq 531, 10 A2d 150.

net return. Net income; net profit.

The "net return" of a bond purchased for a specified amount, is the interest paid on such bond increased or diminished by such an amount added or deducted at the time of each interest payment as will restore the purchase price to par at the maturity of the bond. Anno: 48 ALR 692.

net revenues. For most purposes, the same as net income. Re Joy, 247 Mich 418, 225 NW 878, 72 ALR 973. Tax collections less the cost of collection.

net succession. A term found in some inheritance tax statutes. The value of the property remaining for the beneficiary after the satisfaction of such charges and burdens as may be lawfully satisfied in due course of administration. Estate of Hite, 159 Cal 392, 113 P 1072.

net weight. The weight of a shipment of goods less the weight of containers, boxing, crating, chains, and the like. State ex rel. Washington Mill Co. v Great Northern Railway Co. 43 Wash 658, 86 P 1056.

net worth method. A method of calculating the income of a person whose records are inadequate; establishing a net worth of the person as of the beginning of a year, subtracting such amount from the amount established as his net worth at the end of the year, and repeating such calculation for each succeeding year of the period under examination. Holland v United States, 348 US 121, 99 L Ed 150, 75 S Ct 127.

ne unques accouple. Never married.

ne unques administrator. No such administrator; an anciently recognized plea which put in issue the fact of administratorship. Roberts v White, 32 RI 185, 78 A 497.

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ne unques executor. No such executor; an anciently recognized plea which put in issue the fact of executorship. Roberts v White, 32 RI 185, 78 A 497.

ne unques receivour. No such receiver.

Ne unques seisie que dower. He was never seised so that dower could attach.

Ne unques son receiver. He was never his receiver.

neurasthenia. A nervous condition characterized by depression, worry, and pains having no apparent cause. Colorado Springs & I. R. Co. v Nichols, 41 Colo 272, 92 P 691.

See **traumatic neurasthenia**.

neurological examination. A medical examination conducted by a neurologist. 23 Am J2d Dep § 299.

neurologist. A specialist in the medical field of neurology.

neurology. That branch of medicine which is concerned with the nervous system and diseases thereof.

neurosis. A mental disorder characterized by unwarranted anxiety, sometimes by obsession; less than a pronounced disorganization. A mental affliction without serious derangement but which may constitute total disability. 29A Am J Rev ed Ins § 1525.

neutral. A country observing neutrality as to a war between two or more other nations. 56 Am J1st War §§ 217 et seq. The position of the gears in a motor vehicle at which the engine is disengaged so as not to be applying force in the movement of the vehicle.

neutrality. Taking no part in a dispute between others. Abstinence of a nation from any participation in a public, private, or civil war, and impartiality of conduct toward both parties. *The Three Friends*, 166 US 1, 41 L Ed 897, 17 S Ct 495.

While a neutral yields to other nations the unobstructed exercise of their sovereign or belligerent rights, her own dignity and security require of her the vindication of her own sovereign right to remain a peaceable and impartial spectator of the war. *The Samtissima Trinidad* (US) 7 Wheat 283, 5 L Ed 454.

neutralization of risk. Taking out an annuity contract and a life insurance contract in combination. *Fidelity-Philadelphia Trust Co. v Smith*, 356 US 274, 2 L Ed 2d 765, 78 S Ct 730.

See **hedging**.

neutral port. The port of a neutral nation in time of war between two or more other nations.

neutron. A particle of an atom.

ne varietur. Lest it be changed. A mark or annotation placed on an instrument by a notary public by way of identification of the instrument. 11 Am J2d B & N § 193.

never indebted. The general issue pleaded in an action of debt on simple contract.

new. Newly made, recently manufactured; not previously used. *Ajax Petroleum Products Co. v Blake* (App) 70 Ohio L Abs I, 126 NE2d 926.

new acquisition. A nonancestral estate; an estate acquired by purchase. *Gray v Chapman*, 122 Okla 130, 243 P 522.

new action. A subsequent action between the same parties and involving the same subject matter, brought following a prior dismissal.

new and further disability. A physical disability occurring after a period of disability. 58 Am J1st Workm Comp § 501.

A permanent disability, resulting after a period of temporary disability, has been held to constitute a "new and further disability" within the meaning of the provision permitting the filing of a claim for any new and further disability within a specified period. Cowell Lime & Cement Co. v State Industrial Com. 211 Cal 154, 294 P 703, 72 ALR 1118.

new and useful art. The subject of a patent to the same extent as a piece of machinery; a new and beneficial process of treating materials so as to produce a given result. O'Reilly v Morse (US) 15 How 62, 133, 14 L Ed 601, 632.

As the term is employed in the patent laws, it includes the word "method," which may be used interchangeably with the word "process." Honolulu Oil Corp. v Halliburton, 306 US 550, 83 L Ed 980, 59 S Ct 662.

new assignment. A repleading of the plaintiff's cause of action in different form to meet a plea which shows the declaration to be ambiguous; a restatement, with greater particularity and exactness, of the same cause of action already set up in the complaint or declaration. Bishop v Travis, 51 Minn 183, 185, 53 NW 461.

new building. A structure new from the ground up. A building, constructed in part from an older building but so entirely changed in plan, structure, dimensions, and general appearance as to become in a fair sense and according to the common understanding of men, another building. Mayville v Rosing, 19 ND 98, 123 NW 393.

new cause of action. A phrase applied in determining the application of a statute of limitations to an amended pleading. A cause of action based upon a state of facts different from those in the original pleading, a cause of action pleaded in behalf of parties not named in the original pleading, or a cause of action which embraces both such features. Love v Southern Railway Co. 108 Tenn 104, 65 SW 475.

new consideration. A consideration in addition to the consideration for the original contract, furnished on extension, renewal, or modification of the contract. 11 Am J2d B & N § 917; 17 Am J2d Contr § 460.

new contract. A contract which modifies or supersedes a prior contract. 17 Am J2d Contr § 459.

new domicil. A domicil acquired upon the relinquishment of a former domicil.

new edition. Copyrighted material to which new and original matter has been added. 18 Am J2d Copyr § 42.

New England town. A cluster of inhabitants dwelling near each other and possessing the power to manage their own prudential affairs. Hill v Boston, 122 Mass 344. Demonstrating democracy in action in its town meeting.

new enterprise. Within the meaning of a statute granting a tax exemption, a business or establishment created anew, not one which has merely come into the hands of a new owner or one which, although clothed in the dress of a new corporation, actually was built upon the ruins of an old corpora-

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tion in liquidation and carries on the same business as the liquidated corporation. Continental Tobacco Co. v Louisville, 123 Ky 173, 94 SW 11.

new evidence. See **newly discovered evidence.**

new for old. See **one third new for old.**

new lease. A term of significance in the law of landlord and tenant.

Under an agreement among the executor of a lessor, the lessee, and one who desired to acquire the residue of the term, that the lessee should be released from liability, the lease surrendered, and a "new lease" executed for the residue of the term "on the same terms and conditions in all respects" as the original lease, the phrase "new lease" is referable to the document and not to the agreement creating the relation of landlord and tenant; hence, the new tenant is entitled to a lease containing the same option to purchase as was in the original lease. 32 Am J1st L & T § 308.

newly acquired vehicle. A term familiar in automobile insurance policies extending the coverage, within limitations, beyond the specific vehicle designated in the policy to a vehicle acquired after the inception of the policy. 7 Am J2d Auto Ins §§ 100 et seq.

newly discovered assets. Assets of a bankrupt coming to light after the closing of the estate in bankruptcy. Assets of a bankrupt which the bankrupt did not schedule, and which should have been administered for the benefit of the creditors. 9 Am J2d Bankr § 1273.

newly discovered evidence. Evidence discovered after verdict or decision. As ground for new trial:—evidence discovered since the trial, which could not have been discovered before the trial by the exercise of due diligence, and which is material to the issue, and not merely cumulative or impeaching. 39 Am J1st New Tr § 158.

"New proof," to be available in a bill of review, must be such as could not have been discovered before the hearing by the exercise of reasonable diligence. Ketchum v Breed, 66 Wis 85, 26 NW 271.

Facts or evidence forgotten at trial as newly discovered evidence which will warrant grant of new trial in civil case. Anno: 50 ALR2d 994.

new matter. That which, in defense, the defendant must plead affirmatively and prove. 29 Am J2d Ev § 129; 41 Am J1st PI § 156. Acts, transactions, or happenings which occurred subsequent to those complained of by the plaintiff and which do not form a part of the original contract or transaction but are independent of it. 41 Am J1st PI § 156. Whatever fact, if proved, would not tend to contradict the plaintiff's pleading, but would tend to establish some circumstance, transaction, or conclusion of fact not inconsistent with the truth of all the allegations in such pleading. Baldwin Locomotive Works v Edward Hines Lumber Co. 189 Ind 189, 125 NE 400, 127 NE 275, 13 ALR 1059.

new promise. A promise in addition to, or substituted for, the promise in an original agreement. 17 Am J2d Contr §§ 459 et seq. A promise made in writing by a debtor to his creditor after the cause of action is barred by the statute of limitations, to revive it, or before the action is barred, to keep it alive. Hellman v Kiene, 73 Iowa 448, 35 NW 516.

new proof. See **newly discovered evidence.**

news. Information, particularly information recently discovered or ascertained. Reports of recent occurrences of varied character, covering political, social, moral, religious, and other subjects, local or foreign, intended for the information of the general reader. Apparently authentic reports of current events of interest. 39 Am J1st Newsp § 2.

News is not always synonymous with facts, in the sense of verity. Much news ultimately proves fictitious, yet it is news notwithstanding. The word means no more (laying aside hoaxing and intentional falsehood) than apparently authentic reports of current events of interest. Associated Press v International News Service (CA2 NY) 245 F 244, 2 ALR 317, 318.

news company. A company engaged in the distribution of newspapers, magazines, other periodicals, and news sheets to stores which retail such publication.

new series. The continuation of a publication, such as the Atlantic Reporter or the American Law Reports, with new numbering of volumes and usually with some change in format.

new servitude. Same as **additional servitude**.

newspaper. A publication appearing at regular, or almost regular, intervals at short periods of time, as daily or weekly, usually in sheet form, and containing news, that is, reports of happenings of recent occurrence of a varied character, such as political, social, moral, religious, and other subjects of a similar nature, local or foreign, intended for the information of the general reader. 39 Am J1st Newsp § 2.

See **official newspaper**.

newspaper notice. A notice prepared for and published in a newspaper. The acclaim or criticism of the performance of an actor, musician, or dancer.

newspaper of general circulation. A newspaper of a state, county, city, or town, published for the dissemination of local or telegraphic news and intelligence of a general character, having a subscription list of paying subscribers, and established, printed, and published at regular intervals in such state, city, or town, and reaching all classes of the public. Anno: 68 ALR 547 (statutory definition). A newspaper which circulates at least to some extent among the general public, although it may be devoted to the interests of a particular class of persons and specialize in news and intelligence primarily of interest to that class. 39 Am J1st Newsp § 8. A newspaper which is not restricted to one county, or necessarily restricted to the state itself. State v Koen, 35 Neb 676, 53 NW 595.

A statute exempting "newspapers" from the operation of a sales tax has reference to the natural, plain, and ordinary significance of the word in general and common usage, and does not include magazines or periodicals. Gasson v Gay (Fla) 49 So 2d 525, 21 ALR2d 412.

Newspaper Publicity Law. The act of Congress requiring proprietors of newspapers, magazines, periodicals, etc., to file semi-annual sworn statements with the postmaster general and the local postmaster giving information as to the management, ownership, editorial department, the number of paying subscribers and other data, requiring publication of the statement and denying the use of the mails as a penalty for non-compliance. 39 Am J1st Newsp § 25.

newsstand. A small structure, sometimes not more than a table or desk, located in a hotel or public building, sometimes on the sidewalk in a downtown

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section, at which newspapers, magazines, racing forms, etc. may be purchased.

new style calendar. The modern calendar. The Gregorian calendar.

New Talys. See **Novaes Narrationes**.

new trial. A re-examination of an issue of fact by the trial court with a view to correcting errors which have occurred in the course of the former trial. State v Burns, 312 Mo 673, 280 SW 1026, 44 ALR 848. A re-examination in the same court of an issue of fact after a verdict by a jury, a report of a referee or master, or a decision by the court. 39 Am J1st New Tr § 2. A remedy sought by motion made in the same action. 39 Am J1st New Tr § 186.

new trial on appeal. A new trial or trial de novo with limitations.

The normal review on appeal or by error proceeding is confined to consideration of the record below, with no new testimony taken or issues raised in the appellate court, the tendency being to limit appellate courts of final jurisdiction in their

consideration of questions of facts. 4 Am J2d A & E § 1. The nearest approach to a complete trial de novo on appeal is in an appeal or error proceeding taken from a decree in equity, where the appellate court can make independent findings of fact, drawing its own conclusions from the evidence, but even in this instance the review is limited to a consideration of the record made in the lower court. 5 Am J2d A & E§703.

new work. (Civil law.) Structures erected on land; improvements; alterations or additions which have been constructed on structures previously erected.

See **extra work.**

nexi. (Roman law.) Debtors who were held in bondage by their creditors as security for their debts.

next blood relations. Words of purchase, as synonymous with "children." McCann v McCann, 197 Pa 452, 47 A 743.

next business day. The secular or business day following a Sunday or a holiday. Uniform Negotiable Instruments L § 194. Within the meaning of the limitation of time for a drawee bank to determine whether or not it will pay a check presented for payment:-until midnight of the next business day following the day of presentment of the check. Rock Finance Co. v Central Nat. Bank, 339 Ill App 319, 89 NE2d 828.

next election. See **election to fill vacancy in office.**

next friend. The person through whom an infant maintains or defends a suit in the absence of a guardian or guardian ad litem. 27 Am J1st Inf §§ 113 et seq. Not a party to the action so as to be subject to interrogation under Rule 33 of the Federal Rules of Civil Procedure. Ju Shu Cheung v Dulles (DC Mass) 16 FRD 550.

next heirs. A term of art, ordinarily constituting words of limitation. Hamilton v Sidwell, 131 Ky 428, 115 SW 204; Price v Griffin, 150 NC 523, 64 SE 372; Davenport v Eskew, 69 SC 292, 48 SE 223.

next legal heirs. A term of art, ordinarily constituting words of limitation.

See **next heirs.**

next of kin. Those persons nearest in degree of blood relationship to whom the personal property of an intestate is distributed. 23 Am J2d Desc & D § 43. Strictly speaking, not synonymous with "heirs," who take the real estate of an intestate, although sometimes referred to as such. Tillman v Davis, 95 NY 17. Sometimes implying those persons who are entitled to the property of an estate whether they in fact bear any blood relationship or not. Wilcoxon v Owen, 237 Ala 169, 185 So 897, 125 ALR 539. As the term appears in a will:-the nearest blood relatives of the testator, except as the context of the will, properly construed in the light of the surrounding circumstances, indicates a broader significance, 57 Am J1st Wills § 1375; ordinarily inclusive of persons of the half blood. Anno: 49 ALR2d 1372. As used in a workmen's compensation act, nearest in degree of relationship. 58 Am J1st Workm Comp § 171. In respect to preference in appointment as administrator, ordinarily those persons who take the personal estate of the deceased under the statutes of distribution. 31 Am J2d Ex & Ad § 53.

The Massachusetts rule is that the term "next of kin," as used in a will, means the nearest blood relatives of the designated person, rather than those who would take under the statute of distributions, where the will contains nothing tending to show use of the words in a different sense. Agricultural Nat. Bank v Schwartz, 325 Mass 443, 91 NE2d 195, 32 ALR2d 289.

next-to-beer. Another name for near beer. 30 Am J Rev ed Intox L § 11.

nexum. (Roman law.) A formal contract between a debtor and his creditor whereby the debtor pledged his personal liberty as security for his indebtedness.

nexus theory. Same as **minimum contacts test.**

N. F. Abbreviation of Norman French.

n/f. An abbreviation of no funds, stamped upon a check when payment refused for want of funds of the drawer.

N. G. Abbreviation of National Guard.

Nicene. The appellation given a religious creed promulgated in 325 A. D. at the first general council of Christians held at Nicea in Asia Minor.

niche. A hollowed space in a wall where a cinerary urn is or may be placed. 14 Am J2d Cem § 1.

nichil. Nothing.

nickel machine. An older term for slot machine.

nickname. Literally, a nicked name, a name snipped or whittled. A name applied to a person other than his true name, sometimes as a joke or in derision, at other times as a term of affection. 38 Am J1st Name § 8. A name given in contempt, derision, or sportive familiarity,—a familiar or opprobrious appellation. Ohlman v Clarkson Sawmill Co. 222 Mo 62, 120 SW 1155. As used in a will, sometimes, but not always, inclusive of a grandniece. 57 Am J1st Wills § 1390.

See **nephews and nieces.**

niece. The daughter of one's brother or sister. A relative in the third degree according to the civil-law method of computing degrees of kinship which prevails in most American jurisdictions. 23 Am J2d Desc & D § 48.

As the term is used in statutes relating to incest and prohibiting marriage between uncle and niece, it is confined to relationship by consanguinity and does not refer to relations by affinity. State v Tucker, 174 Ind 715, 93 NE 3.

See **nephews and nieces.**

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nief. Feminine of naif.

nient. (Latin origin.) Not; nothing.

nient comprise. Not included.

nient culpable. Not guilty.

nient dedire. Not to deny; to default.

nient le fait. Not the deed.

nient seisi. Not seized.

night. The hours of darkness. A manifestation of the natural phenomena of the rotation of the earth. 29 Am J2d Evi § 100.

See **nighttime.**

night auction. An auction sale at night, sometimes prohibited by law. 7 Am J2d Auct § 5.

night deposit. A bank deposit made after banking hours by placing the deposit and deposit slip in a bag or secure package and then placing the bag or package in a chute provided by the bank for receiving such deposits. 10 Am J2d Banks § 358.

night message. A classification of service by a telegraph company for which a reduced rate is charged, made according to the time of transmission. 52 Am J1st Teleg & T § 147.

night owl. See **owling**.

night season. Same as **nighttime**.

nighttime. A time of day characterized by want of daylight or crepusculum sufficient to discern a man's face, moonlight not being considered. 13 Am J2d Burgl § 22. Sometimes defined by statute as the period between sunset and sunrise. Anno: 82 ALR2d 644, §§ 1 et seq.

nightwalker. See **nightwalking**.

nightwalking. The offense committed by a woman in strolling the streets at night for the unlawful purpose of picking up men for illicit intercourse, irrespective of expectation of gain. 42 Am J1st Prost § 1. Making a habit of being abroad at night for the purpose of committing some crime, of disturbing the peace, or doing some wrongful or wicked act. State v Dowers, 45 NH 543, 544.

Nigrum nunquam excedere rubrum. The black should never depart from or go beyond the red, meaning that, the black ink text of the statute should not include matters which are not referred to in the red ink title.

nightwatchman. See **watchman**.

night work. Employment at night, a matter of permissible statutory regulation in reference to women and children, and in reference to particular industries, even of men. 31 Am J Rev ed Lab § 782.

nihil. Nothing; not; the return of a sheriff who has found nothing belonging to the defendant whereby he may be summoned, attached, or distrained. See 3 Bl Comm 282.

Nihil aliud potest rex quam quod de jure potest. The king can do nothing other than that which he can do under the law.

Nihil capiat per billam. Let him take nothing by his bill,—a formal expression which was used in a decree in equity in favor of the defendant.

Nihil capiat per breve. Let him take nothing by his writ; a formal expression used in a judgment in favor of the defendant.

Nihil consensui tam contrarium est quam vis atque metus. (Civil law.) Nothing is as much opposed to consent as force and fear.

Nihil dat qui non habet. He can give nothing who has nothing to give.

nihil debit. Same as **nil debit**.

Nihil de re accrescit ei qui nihil in re quando jus accresceret habet. Nothing accrues to a person in respect to a thing who, when the right accrues, has no interest in the thing.

nihil dicit. He says nothing.

Nihil enim aliud potest rex, nisi id solum quod de jure potest. For the king can do nothing, excepting only that which he is able to do lawfully. See 1 Bl Comm 238.

nihil est. There is nothing. A sheriff's proper return on a summons where no service can be made.

Although non est inventus, he has not been found, is the more common form of such return, it is not as full as nihil est, there is nothing; which amounts to an averment that the defendant has nothing in the bailiwick, no dwelling house, no family, no residence, and no personal presence to enable the officer to make the service. Sherer v Easton Bank, 33 Pa 134, 138.

Nihil est enim liberate quod non idem justum. For there is nothing generous which is not at the same time just.

Nihil est magis rationi consentaneum quam eodem modo quodque dissolvere quo conflatum est. Nothing is more agreeable with reason than to discharge anything in the same manner in which it was wrought or brought into being.

Nihil facit error nominis cum de corpore constat. (Civil law.) An error in the name is of no consequence when there is certainty as to the person.

nihil habet. A sheriff's return on a scire facias as to a defendant whom he failed to serve. Sullivan v Johns (Pa) 5 Whart 366, 369.

Nihil habet forum ex scena. The forum holds nothing beyond the stage, meaning that the court or tribunal has nothing to do with what is not before it.

Nihil infra regnum subditos magis conservat in tranquilitate et concordia quam debita ligum administratio. Nothing better preserves the subjects of the realm in tranquillity and concord than the due administration of the laws.

Nihil iniquius quam aequitatem nimis intendere. Nothing is more unfair than to stretch equity too far.

Nihil in lege intolerabilius est, eandem rem diverso jure censeri. Nothing is

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more intolerable in law than that the same matter should be decided differently by the court.

Nihil magis justum est quam quod necessarium est. Nothing is more just than that which is necessary.

Nihil nequam est praesumendum. Nothing bad or wicked should be presumed.

nihilo nil. See **de nihilo nil.**

Nihil perfectum est dum aliquid restat agendum. Nothing is perfect while something remains to be done.

Nihil peti potest ante id tempos, quo per rerum naturam persolvi possit. (Civil law.) Nothing can be demanded before the time when in the nature of things it can be paid.

Nihil possumus contra veritatem. We can do nothing against truth.

Nihil praescribitur nisi quod possidetur. There is no prescription except for that which is possessed or held in possession.

Nihil quod est contra rationem est licitum. Nothing is lawful which is contrary to reason.

Nihil quod est inconveniens est licitum. Nothing which is unconventional is lawful. See 1 Bl Comm 70.

Nihil simul inventum est et perfectum. Nothing is invented and perfected at the same time.

Nihil tam conveniens est naturali aequitati quam unumquodque dissolvi eo ligamine quo ligatum est. Nothing is so agreeable to natural equity as that anything should be released or discharged in the same manner in which it was made binding.

Nihil tam conveniens est naturali aequitati, quam voluntatem domini volentis rein suam in alium transferre, ratam haberi. Nothing is so agreeable to natural equity as that the will of an owner who desires to convey or transfer his own property to another person should have validity.

Nihil tam naturale est, quam eo genere quidque dissolvere, quo colligatum est. Nothing is so natural as that anything should be released or discharged in the same manner in which it was made binding.

Nihil tam proprium imperio quam legibus vivere. Nothing is so closely connected with government as to live in conformity with the laws.

nil. A contracted form of nihil.

NIL. Abbreviation of Negotiable Instruments Act.

Nil agit exemplum, item quod lite resolvit. A precedent which settles a controversy with a controversy does no good. Hatch v Mann (NY) 15 Wend 44, 49.

nil capiat. See **judgment of nil capiat.**

Nil capiat per billam. Same as **Nihil capiat per billam.**

Nil capiat per breve. See **judgment of nil capiat per breve.**

Nil debet. He owes nothing. A plea of the general issue which may be asserted by the defendant in an action of debt on a simple contract, and in all other actions of debt which are not founded on a specialty or conclusive record. 41 Am J1st Pl § 141.

Nil dicit. He says nothing, meaning that he has not pleaded; that he has failed to interpose a plea or answer to the plaintiff's declaration or complaint. Wilbur v Maynard, 6 Colo 483, 485.

Nil facit error nominis si de corpore constat. Same as **Nihil facit error**, etc.

Nil frustra agit lex. The law does nothing in vain. Doe, ex dem. Governeur's Heirs, v Robertson, (US) 11 Wheat 332, 355, 6 L Ed 488, 494.

Nil habuit in tenementis. He has no interest in the tenement.

Nil sine prudenti fecit ratione vetustas. Antiquity did nothing without a wise or prudent reason.

Nil temere novandum. Nothing should be rashly changed or altered.

Nimia certitudo certitudinem ipsam destruit. A certainty which is too certain destroys itself.

Nimia subtilitas in jure reprobatur. Too much subtlety is discountenanced in the law.

Nimia subtilitas in jure reprobatur, et talis certitudo certitudinem confundit. Too much subtlety is discountenanced in the law, and too much subtlety confuses certainty with certainty.

Nimum altercando, veritas amittitur. The truth is lost by too much cross-examination.

nimmer. A thief.

nine hundred ninety-nine year lease. A lease for a term of 999 years, valid in respect of the term in the absence of statute. 32 Am J1st L & T § 64.

Nineteenth Amendment. The amendment to the United States Constitution, the ratification of which was completed on August 26, 1920, the effect of which is to erase from the constitution and laws of each state every provision restricting the right of women to vote, and to make women legal voters to the same extent to which the right of suffrage has been conferred on men by the respective states. Anno: 71 ALR 1332.

ninety-nine year lease. A lease for a term of 99 years, valid in respect of the term, in the absence of statute. 32 Am J1st L & T § 64.

nisi. Unless; if not; except.

nisi convenissent in manum viri. Unless they should come under the care of a husband.

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Among the ancient Greeks and Romans women were never of age, but were subject to perpetual guardianship, unless when married. See 1 Bl Comm 464.

nisi decree. See **decree nisi**.

nisi feceris. Unless you should do it.

nisi judgment. Nothing more than an order to show cause why judgment should not be rendered. Young v M'Pherson, 3 NJL 895, 897.

See **decree nisi**.

nisi order. See **order nisi**.

nisi per legale judicium parium. See **pares regni**.

Nisi per legale judicium parium suorum vel per legem terrae. Unless by lawful judgment of his peers or equals, or by the law of the land.

It was in these famous words that Magna Charta guaranteed to every freeman the right of trial by jury, "the principal bulwark of our liberties," when his person or his property was at stake. See 3 Bl Comm 350.

nisi prius. Unless before. A trial before a single judge. An English court presided over by commissioners detailed on circuit from London to hold jury trials. In modern terminology, the trial, as distinguished from the appellate court, where both have exercised jurisdiction in a cause.

nisi prius court. The trial court.

nisi prius roll. The record of the proceedings of the court in which a case was begun made up for the nisi prius court.

nisi prius writ. An old English writ which directed a sheriff to bring the jurors to Westminster unless before that time the justices of assize came into the county to try cases.

nisi rule. See **rule nisi.**

nisi ubi leges cum justicia retrospicere possint. Unless where laws can relate back with justice. Pryor v Downey, 50 Cal 388, 402.

nitrate of soda. A mineral. 36 Am J1st Min & M § 5.

nitroglycerin. A substance which because of its nature as an explosive is dangerous at all times, in all places, and under all circumstances. 22 Am J2d Explos § 3. A substance compounded in a mixture of nitric acid, sulphuric acid and glycerin, which explodes even more readily when heated. Barnhardt v American Glycerin Co. 113 Kan 136, 213 P 663, 31 ALR 721.

nixie. A decoy or test letter; that is, a letter addressed to a fictitious person, or to a place where there is no postoffice. United States v Denicke (CC Ga) 35 F 407.

n. 1. An abbreviation of **non liquet**.

NLRB. Abbreviation of National Labor Relations Board.

no. An abbreviation of number. Improper as an abbreviation of "north," "n." being the proper definition. Burr v Broadway Ins. Co. 16 NY 267, 271.

no action clause. A clause in an insurance policy purporting to indemnify or insure against loss from injuring the property or person of a third person, which provides in substance that no action shall be had on the policy to recover loss or expense, except as an action shall be brought by the insured for a loss or expense actually sustained and paid in money by the insured after the amount thereof has been fixed by final judgment or by agreement. 7 Am J2d Auto § 169; 29A Am J1st Ins § 1343.

no arrival, no sale. A stated condition in a contract of sale of goods, meaning that if the goods do not arrive at the destination indicated, the buyer acquires no property in the goods and does not become liable for the purchase price. Cundill v A. W. Millhauser Corp. 257 NY 416, 178 NE 680.

It has been held that a contract for goods "to be shipped" by a specified vessel at a price per pound "ex ship," with a provision for a fair allowance if "sea damaged," and saying "no arrival, no sale," does not make the arrival of the goods on the

vessel named a condition precedent, where a portion of them are transhipped at an intermediate port because of a disaster to the vessel. See 46 Am J1st Sales § 201.

no award. A plea in an action upon an award which denies that an award was made.

nobile. See **feudum nobile.**

Nobiles magis plectuntur pecunia. Persons of noble birth are more often punished in money; that is, by fines.

Nobiles magis plectuntur pecunia, plebes vero in corpore. Persons of noble birth are more often punished in money, but the common people in body; that is by corporal punishment.

Nobiles sunt qui arma gentilitia antecessorum suorum proferre possunt. Those persons are nobles who can produce the family arms of their ancestors.

Nobiliores et benigniores presumptiones in dubiis sunt praefferendae. The more noble and charitable presumptions are to be preferred in doubtful cases.

Nobilitas est duplex, superior et inferior. Nobility is twofold, superior and inferior.

nobility. The English class of persons of rank and title which includes dukes, marquesses, earls, viscounts, and barons.

All degrees of nobility and honor are derived from the king, and he may institute what new titles he pleases. Hence, these degrees are not of equal antiquity. See 1 Bl Comm 396.

no bill. An indorsement by a grand jury on an indictment, indicating "not found" or "not a true bill."

noblesse oblige. (French.) Literally, those of the higher rank or better class will be compelled. Inferentially, compelled to humane and proper conduct. The basis of the maxim that those persons who are in comfortable circumstances and possessed of means should set the example of obedience to the laws. State v Colonial Club, 154 NC 177, 69 SE 771.

nocent. Guilty.

nocere. To hurt; to injure; to harm; to damage.

no collusion. See **affidavit of no collusion.**

no consideration. A form of plea or answer interposed in an action on a contract, advising the court

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that the contract sued on is not enforceable because it has no foundation to rest upon.

It has been often held that, under such a plea, the defense will fail if it is shown that there was any consideration whatever for the contract. The amount of it is immaterial. Shirk v Neible, 156 Ind 66, 75, 59 NE 281.

noctanter. Nocturnally; by night.

nocumentum. Nuisance, or annoyance, signifying anything that works hurt, inconvenience, or damage. See 3 Bl Comm 215.

no damage clause. A provision in a contract precluding claims for damages due to delay in performance. Anno: 10 ALR2d 815; 22 Am J2d Damg § 50.

no evidence point. A point made on appeal asserting the absence of evidence to support a finding. Williston v Perkins, 51 Cal 554.

no eyewitness rule. The rule that where there was no eyewitness to a fatal accident, the presumption, or at least the inference, is, that, in the absence of circumstances indicating clearly to the contrary, the decedent exercised ordinary care for his own safety. 22 Am J2d Dth § 216.

no goods. A return, better known as a return of nulla bona, to a writ of execution in which the officer indicates a strict and diligent search by him but inability to find any property of the defendant liable to seizure under the writ. 30 Am J2d Exec § 562.

no immunity doctrine. The doctrine that an institution, which is not a part of the government, is not, merely because of its nature as a charity, immune from liability for damages in tort. 15 Am J2d Char § 158.

NOLCO. Abbreviation of net operating loss carry over, an income tax term.

nolens volens. Willing or not willing; whether willing or not.

nolle. To be unwilling.

no liability clause. A clause in a liability policy, providing that there shall be no liability in case the risk is covered by other valid or collectible insurance. 7 Am J2d Auto Ins § 201.

nolle prosequi. A formal entry of record by the prosecuting attorney by which he declares unwillingness to prosecute a case or his intention not to prosecute the case further. 21 Am J2d Crim L § 512. An agreement not to proceed further in the suit as to a particular person or cause of action. 24 Am J2d Dism § 3. An entry made on the record by which the plaintiff declares that he will proceed no further. Steele v Beaty, 215 NC 680, 2 SE2d 854.

See **judgment of nolle prosequi**.

nolo contendere. Literally, "I do not wish to contend." Substantially, though not technically, a plea of guilty; an implied confession; a quasi confession of guilt. 21 Am J2d Crim L § 497. A plea recognized in administrative proceedings. Re 17 Club, Inc. 26 NJ Super 43, 97 A2d 171.

It is difficult to define the exact nature of a plea of nolo contendere; regardless of the label attached, the plea for practical purposes is a plea of guilty, or the equivalent thereof. United States v Safeway Stores, Inc. (DC Tex) 20 FRD 451.

nol. pros. Abbreviation of **nolle prosequi**.

nolumus mutare. Not willing to change. Noble State Bank v Haskell, 219 US 104, 575, 55 L Ed 112, 341, 31 S Ct 186, 299.

nomen. A name.

nomen collectivum. A collective name.

Nomen dicitur a noscendo, quia notitiam facit. "Nomen" is so called from the word "noscendo," because it causes the thing to be known.

Nomen est quasi rei notamen. A name is, as it were, the distinguishing mark of a thing.

nomen generale. A general name; the name of a genus.

nomen generalissimum. A very general name.

A word or term which refers to a class or species is often referred to as nomen generalissimum. For example, the word horse is often used as a general term including mares, colts, stallions and geldings. State v Dunnavent, 5 SCL (3 Brev) 9.

nomen juris. A name or word of law; a law term.

Nomen non sufficit si res non sit de jure aut de facto. A name is not sufficient if the thing does not exist either in law or in fact.

nomina. Plural of nomen.

nominal. Characterizing an existence in name only; without any actual, substantial existence. Park Amusement Co. v McCaughn (DC Pa) 14 F2d 553.

nominal capital. Capital employed in the conduct of a business which is not a material income-producing factor. Alexander & Garrett v United States (DC Ga) 21 F2d 547, term as found in Internal Revenue Act of 1917.

nominal consideration. A consideration in a nominal sum, such as "one dollar." 17 Am J2d Contr § 102; 23 Am J2d Deeds § 66.

nominal damages. An award to which the plaintiff is entitled, although he gives no evidence of any particular amount of loss, because the law infers damage from the breach of an agreement or the invasion of a right. Ferreira v Honolulu Star Bulletin Ltd. 44 Hawaii 567, 356 P2d 651, reh den 44 Hawaii 581, 357 P2d 112. Damages recoverable where a legal right is to be vindicated against an invasion that has produced no actual present loss of any kind or where, from the nature of the case, some compensable injury has been shown but the amount of that injury has not been proved. 22 Am J2d Damg § 5.

nominal holder. The holder of a negotiable bill or note who is not the beneficial owner and has no beneficial interest in the instrument. 12 Am J2d B & N § 1072.

nominal partner. A person who appears or is held out to the world as a partner, but who has no real interest in the firm or the business. Ditts v Lonsdale, 49 Ind 521, 529; Brown's Executor v Higginbotham (Va) 5 Leigh 583.

nominal party. One suing or defending for the use and benefit of another. A person who is the plaintiff in an action, but who is not the real party in interest. One joined as a party to comply with a technical rule of practice, not because he has an interest in the subject matter of the action.

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nominal payee. The payee named in a negotiable instrument who is not the beneficial owner and has no beneficial interest in the instrument. 12 Am J2d B & N § 1073.

nominal plaintiff. See **nominal party**.

nominal right. A technical right; a right unimportant from the standpoint of substance. 27 Am J2d Eq § 13.

nominal trust. A dry trust; a passive trust. A trust in which the trustee has no duties to perform, the cestui que trust having the entire management of the estate. A trust of such nature that if the trustee does what he is directed to do, the result will be the same as if the trust were executed into a legal estate. 54 Am J1st Trusts § 13.

nominare. To name; to nominate; to appoint; to accuse; to inform against.

Nomina si nescis perit cognitio rerum. If you do not know their names, the knowledge of things is lost.

Nomina sunt mutabilia, res autem immobiles. Names are mutable, but things are immutable.

Nomina sunt notae rerum. Names are the distinguishing marks of things.

Nomina sunt symbola rerum. Names are the symbols of things.

nominate. To name; to designate; to select or choose a person to be a candidate or proper person to hold an office or trust as an act preliminary to the person's appointment or election. *Marbury v Madison* (US) 1 Cranch 137, 167, 168, 2 L Ed 60, 70.

nominate contract. (Civil law.) A contract which falls under some special designation or name, such as a pledge, a sale, or a hiring.

nominativ. (Civil law.) By name; expressly; particularly; each in turn.

nominating and reducing. An English method of impaneling jurors.

nomination. The act of nominating. A designation or selection. The designation of a candidate or candidates for public office or public offices, whether by a primary election, a convention, or a mere nominating petition. 25 Am J2d Elect § 128.

nomination of guardian. The selection of a guardian by an infant 14 years old or older. 25 Am J1st G & W §28.

nominator. One who names or appoints another to or for an office or trust.

nomine. See **eo nomine.**

nomine damni. Under the name or designation of "damages."

nomine. A person who has been chosen or selected as a candidate for an office. *State v Hirsch*, 125 Ind 207, 24 NE 1062.

nomine poenae. Under the name or designation of the word "penalty."

non. Not; no; by no means.

nonabatable nuisance. See **permanent nuisance.**

nonabatable structure. A structure which, if erected by an authority clothed with the power of eminent domain, could be made a lawful structure by condemning the property injured by it or the right infringed by it. *Tulsa v Grier*, 114 Okla 93, 243 P 753, 757.

See **permanent nuisance.**

nonability. The want of ability or capacity; legal incapacity.

nonacceptance. Want of acceptance.

See **dishonor by nonacceptance.**

Non acceptavit. He did not accept.

nonaccess. Absence of sexual relations between husband and wife. The fact of the absence of the husband from the wife, in evidence for the purpose of establishing the absence of sexual relations between them for the period.

Non accipi debent verba in demonstrationem falsam, quae competit in limitationem veram. Words ought not to be taken in a false descriptive sense which are competent to describe a true limitation.

Non accrevit infra sex annos. It did not accrue within six years,—a formal expression used in pleading the statute of limitations.

nonaction by Congress. See **inaction by Congress.**

nonae. Same as **nones.**

nonage. The condition of a person under the age of majority; infancy. Want of the requisite age to enter into a marriage or conduct a business transaction.

nonagency station. A station on the route of a common carrier without an agent in charge, so that the delivery of a shipment at such station occurs ordinarily when the goods are unloaded or set off thereat, under conditions which are not unreasonable. 13 Am J2d Car § 413.

nonagium. Same as **nonage.**

Non alio modo puniatur aliquis, quam secundum quod se habet condemnatio. A person should not be punished in any other manner than that which the sentence of the court provides.

Non aliter a significatione verborum recedi oportet quam cum manifestum est, aliud sensisse testatorem. (Civil law.) The ordinary meaning of the words ought not to be departed from unless it is manifest or clear that the testator intended otherwise.

non allocatur. See **et non allocatur.**

nonanalogous arts and uses. See **analogous arts and uses.**

nonancestral estate. An estate the title to which was acquired otherwise than by descent.

There are but two characters of estate known to our jurisprudence. An estate is either ancestral or nonancestral. In some jurisdictions, the latter is termed 'new acquisition' or 'purchase.' " Gray v Chapman, 122 Okla 130, 243 P 522, 524.

nonancestral property. Property acquired otherwise than by descent. Gray v Chapman, 122 Okla 130, 243 P 522.

nonapparent easement. An easement which is not

obvious or susceptible of ascertainment by cursory inspection of the premises. 25 Am J2d Ease § 9.

See **noncontinuous easement**.

nonappearance. The failure of a defendant to enter an appearance in an action. The failure of a party or witness to appear in response to notice, process, or subpoena.

nonapportionable annuity. The ordinary annuity; an annuity not apportionable in respect of time, so that if the annuity dies before the day on which a payment becomes due, the personal representative of the annuitant is not entitled to a proportional part. 4 Am J2d Annui § 24.

non assumpsit. A plea of the general issue in an action of assumpsit. 41 Am J1st Pl § 141.

Non assumpsit infra sex annos. He did not undertake or promise within six years,—formal words used in pleading the statute of limitations in an action of assumpsit.

Non auditur perire volens. A person who desires to die is not to be listened to.

non bis in idem. Not twice for the same.

nonborrowing member. A member of a building and loan association who does not borrow from the association. Oklahoma City Federal Sav. & Loan Asso. v Swatek, 191 Okla 400, 130 P2d 514.

nonbusiness bad debt. A familiar term in income tax law, applying only to noncorporate taxpayers; a bad debt acquired otherwise than in the course of a taxpayer's trade or business. IRC § 166(d)(2).

noncancelable policy. A policy of insurance containing provisions which limit the right of the insurer to cancel the policy, particularly a policy of health and accident insurance restricting cancellation after an illness or accident occurring to the insured. Dudgeon v Mutual Ben. Health & Acci. Asso. 70 F2d 49.

non cepit. A plea of the general issue in replevin. 41 Am J1st Pl § 142.

Non cepit modo et forma. He did not take in the manner and form (alleged),—a formal expression used in pleading the general issue in an action of replevin.

nonclaim. The failure on the part of a claimant of property or rights to assert his claim against another who claims adversely to him.

nonclaim covenant. The equivalent of a covenant of warranty. 20 Am J2d Cov § 43.

nonclaim statute. A special statute of limitation on claims against a decedent's estate, providing, in general, that where a claim has been rejected or disallowed by the executor or administrator, the claimant must bring suit on it within a designated time, under penalty that otherwise the claim may be forever barred. 31 Am J2d Ex & Ad § 926. A statute requiring the presentation of a claim on the obligation of one since deceased to his executor or administrator, within a period of time prescribed by the statute, following the appointment of the executor or administrator. 31 Am J2d Ex & Ad § 270.

noncombatant. A civilian in time of war, especially a civilian in a war area. One in the armed services whose duties do not include engaging in combat with the enemy, such as a chaplain.

noncommercial partnership. Same as **non-trading partnership**.

noncommissioned officer. A person enlisted in the Armed Forces, who has some rank, but not a rank evidenced by a commission.

See **warrant officer**.

noncommittal answer. An answer by a witness which avoids a definite statement, such as "I could not say—possibly I did." Anno: 89 ALR2d 1261, § 1.

non-Communist affidavit. An affidavit negating the connection of the affiant with the Communist Party by membership or affiliation. American Communications Asso. v Douds, 339 US 382, 94 L Ed 925, 70 S Ct 674, reh den 339 US 990, 94 L Ed 1391, 70 S Ct 1017.

noncommunity property. A term familiar in community property jurisdictions as property which is not a part of the community. Separate property of a spouse. 15 Am J2d Community Prop § 3.

non compos. Same as **non compos mentis**.

non compos mentis. Adjective: Mentally incompetent. Having a mental condition approximating total and positive incompetency; destitute of memory and understanding. Van Deusen v Sweet, 51 NY 378. Noun: A person of unsound mind. Beaumont's Case (Pa) 1 Whart 52.

non compotes mentis. Plural of **non compos mentis**.

Non concedantur citationes priusquam exprimatur super qua re fieri decit citatio. Citations ought not to be granted before it has been stated for what cause it is fitting that a citation should be made or issued.

non concessit. He did not grant.

nonconforming use. A zoning law term; the use of a building or land that does not agree with the regulations applicable to the district in which the building or land is situated. Anno: 114 ALR 991.

nonconformists. Dissenters, persons who dissented from the forms of the orthodox English church.

Non consentit qui errat. He who errs or makes a mistake does not consent.

non constat. It is not certain; it does not appear.

noncontestable clause. See **incontestability provision**.

noncontinuous easement. An easement the enjoyment of which can be had only by the interference of man, that is, one which has no means specially constructed or appropriated to its enjoyment and which is enjoyed at intervals, leaving between these intervals no visible sign of its existence, such as a mere right of way or a right to draw water. 25 Am J2d Ease § 10.

noncourt receiver. A receiver provided for in a contract in which one of the contracting parties is given the right to appoint a receiver of certain property upon the happening of a certain eventuality. A receiver appointed by a government official of the executive branch. 45 Am J1st Rec § 3.

non cul. An abbreviation of **non culpabilis**.

non culpabilis. Not guilty.

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noncumulative dividends. Dividends on preferred stock which do not cumulate upon omission of payment so as to require payment of a passed or omitted dividend of one year out of earnings of a following year. 19 Am J2d Corp § 878.

The term means that dividends on non-cumulative preferred stock, once passed or omitted, are dead; can never be made up. Guttmann v Illinois Cent. R. Co. (CA2) 189 F2d 927, 27 ALR2d 1066.

noncumulative option. An option provided the maker of a promissory note by the instrument, whereunder he may make payments of principal on dates for payment of interest, in advance of the stated maturity date. 11 Am J2d B & N § 288.

non damnificatus. See **plea of non damnificatus**.

Non dat qui non habet. He does not give who has not. Holland v Cruft, 69 Mass (3 Gray) 162, 178.

Non debo melioris conditionis esse, quam auctor meus a quo jus in me transit. I ought not to be in any better condition than my ancestor from whom the right passed on to me.

Non deberet alii nocere quod inter alios actum esset. That ought not to prejudice a person which has been done between other persons.

Non debet actori licere, quod reo non permittitur. That which is forbidden the plaintiff ought not to be allowed the defendant.

Non debet adduci exceptio ejus rei cuius petitur dissolutio. A plea of the very matter, the determination of which is sought, ought not to be interposed.

Non debet alii nocere, quod inter alios actum est. That ought not to prejudice a person which has transpired between other persons.

Non debet alteri per alterum iniqua conditio inferri. An inequitable condition ought not to be imposed by one person upon another.

Non debet cui plus licet, quod minus est non licere. A person to whom a greater license is given ought not to be forbidden that which is less.

Non debet dici tendere in praejudicium ecclesiasticae liberatatis quod pro rege et republica necessarium videtur. That which is deemed necessary for the welfare of the king and the state ought not to be said to tend toward the prejudice of ecclesiastical liberty.

Non debet fieri, sed factum valet. It ought not to be done, but when it is done it is valid.

Non decet homines dedere causa non cognita. No cause having been shown, it is unseemly to give men up. *Re Washburn* (NY) 4 Johns Ch 106, 114.

non decimando. See **de non decimando.**

Non decipitur qui scit se decipi. A person is not deceived who knows that he is being deceived.

nondeclarant. See **alien nondeclarant.**

Non dedit. He did not grant.

Non definitur in jure quid sit conatus. What constitutes an attempt is not defined in the law.

nondelegable duty. The duty of a contractor which, under the terms of the contract, is to be performed by him personally. 27 Am J1st Ind Contr § 48.

nondelivery. A failure or omission to deliver.

non demisit. He did not demise,—the name given to a plea denying the demise, in an action for rent.

nondescript. Not such as to be classified. *Babcock v Babcock & Wilcox Co.* 137 Pa Super 517, 9 A2d 492.

non desidentia clericorum regis. See **de non desidentia clericorum regis.**

non detinet. A plea of the general issue in an action of detinue.

non differunt quae concordant re, tametsi non in verbis iisdem. Those matters do not differ which agree in substance although they are not in the same words.

nondisclosure. The failure to reveal a fact, with or without an intent to conceal it. *State v Watson*, 145 Kan 792, 67 P2d 515, 110 ALR 998; *Tube Reducing Corp. v Unemployment Compensation Com.* 1 NJ 177, 62 A2d 473, 5 ALR2d 855.

nondiscrimination clause. A provision in a public contract whereby the contractor agrees that he will not discriminate against any employee or applicant for employment because of race, creed, color or national origin, and also that he will take affirmative action to insure that job applicants are employed, and employees are treated during employment, without regard to their race, creed, color or national origin. Executive Order No. 10925, § 301(1) following 5 USC § 631.

nonenumerated article. An article not specifically enumerated in the tariff schedules. 21 Am J2d Cust D § 51.

non distringendo. A writ which lay to prevent a distress.

Non dormientibus sed vigilantibus, leges subveniunt. The laws do not assist slumberers, but only those who are vigilant. *Friezleben v Shallcross*, 14 Del (9 Houst) 1, 19 A 576.

Non dubitatur, etsi specialiter venditor evictionem non promiserit, re evicta, ex empto competere actionem. It is not doubted that although the vendor has not specially promised, in the event of an eviction, an action on the contract of sale is competent. See *Broom's Legal Maxims* 768.

Non efficit effectus nisi sequatur effectus. An intention is of no effect unless a result follows.

non ejusdem generis. Not of the same kind. See 2 Bl Comm 512.

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Non erit alia lex Romae, alia Athenis; alia nunc, alia posthac; sed et omnes gentes, et omni tempore, una lex, et sempiterna, et immortalis continebit. There will not be one law at Rome, another at Athens; one now and another afterward; but one law, eternal and immortal, shall bind all peoples together and for all time.

nones. The ninth hour of the day after sunrise, or about 3 o'clock P. M.; a canonical hour at which was celebrated a religious rite. Rochester German Ins. Co. v Peaslee-Gaulbert Co. 120 Ky 752, 87 SW 3. Under the Roman Calendar, the seventh day of the months of March, May, July, and October, and the fifth day of the other months of the year. Rives v Guthrie, 46 NC (I Jones L) 84, 87.

non est. Is no. Is not.

Non est arctius vinculum inter homines quam jusjurandum. There is no closer bond among men than an oath.

Non est certandum de regulis juris. There is no disputing about the rules of the law.

Non est disputandum contra principia negantem. There is no disputing with a person who denies established principles.

non est factum. A plea of the general issue in an action on a bond, a specialty, or a covenant, impeaching the instrument upon which suit is brought or denying the execution and signing thereof. Dilworth v Federal Reserve Bank, 170 Miss 373, 154 So 535, 92 ALR 1076. A method at common law of raising the issue of fraud in the making or act of execution of a deed. Kuczewski v De Magnussun, 242 Mich 296, 218 NW 657, 57 ALR 756; Dimmel v Morse, 36 Wash 2d 344, 218 P2d 334. A defense presented in equity by a plea in bar. Oliver v Persons, 30 Ga 391.

Non est in facultate mandatarii addere vel demere ordini sibi dato. It is not the function of a mandatary to add or subtract from the authority which has been given to him.

"He (the mandatary) was not authorized to exchange the lands for other property, or to accept the notes of the vendee as cash, or to accept personal security, or any form of security except that specified in the condition." Morrill v Cone (US) 22 How 75, 16 L Ed 253, 255.

Non est inventus. He has not been found-words that are used in an officer's formal return upon his unsuccessful attempt to arrest a defendant under a capias.

Non est inventus in balliva mea. He has not been found in my bailiwick. A form of a sheriff's return on a writ of habeas corpus, where he has been unable to find the defendant in his jurisdiction. See 3 Bl Comm 282.

Non est justum aliquem antenatum post mortem facere bastardum, qui tote tempore vitae suae pro legitimo habebatur. It is not just to make anyone a bastard after his death who during his whole lifetime was regarded as legitimate.

Non est novum ut priores leges ad posteriores trahantur. (Civil law.) It is not novel that earlier laws should give way to later ones. Broom's Legal Maxims 28.

Non est recedendum a communi observanti. There should be no departing from common observance.

Non est regula quin fallat. There is no rule which may not fail.

Non est reus nisi mens sit rea. There is no guilt unless there is a guilty intent.

Non est singulis concedendum, quod per magistratum publice possit fieri, ne occasio sit majoris tumultus faciendi. (Civil law.) That which can be done publicly through a magistrate is not to be conceded to individuals, lest it be the occasion of creating a greater disturbance.

nones y pares. A game of chance played on a billiard table. Anno: 135 ALR 124.

nonexclusive power of appointment. A power whereunder the donee has no right to exclude from the distribution any member of the class designated by the donor, grantor, or testator to be favored by the exercise of the power. *Fidelity & Columbia Trust Co. v Barret*, 166 Ky 411, 179 SW 396.

Non exemplis sed legibus judicandum est. (Roman law.) Judgment should not be rendered from examples, but by the laws.

nonexistent person. A term of importance in reference to fictitious payee. 11 Am J2d B & N § 128. A person who does not exist, in the sense that he was not intended to be the payee by the drawer or maker. 11 Am J2d B & N § 129.

nonexisting bill. A concept involved in the principle that where a promise to accept a nonexisting bill is communicated to a particular person who, upon the face of the promise, takes for value a bill to which it is applicable and which is fairly within the scope of the promise, he is entitled to the benefits of such promise and may maintain an action thereon in his own name. 11 Am J2d B & N § 511.

nonexisting payee. An instrument payable to the order of a nonexisting person, such constituting an instrument payable to bearer where the fact of nonexistence was known to the person making the instrument so payable. 11 Am J2d B & N § 128.

Non ex opinionibus singulorum, sed ex communi usu, nomina exaudiri debent. (Civil law.) The names of things ought not to be learned from individual opinions, but from common usage.

nonexpert evidence. Testimony by one not qualified where particular qualifications are imposed as a prerequisite to the admission of testimony.

Non facias malum, ut inde veniat bonum. You should not do a wicked thing in order that good may come out of it.

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nonfeasance. The failure to act where duty requires an act. Of public officer:—neglect or refusal, without sufficient excuse, to do that which it is the officer's legal duty to do, whether wilfully, or through malice, ignorance, or oversight. *State ex rel. Hardie v Coleman*, 115 Fla 119, 155 So 129, 92 ALR 988. Of employee:—the failure to enter upon the performance of a duty which the contract of employment imposes upon an employee, Anno: 20 ALR 104 s. 99 ALR 409; the total omission or failure of an employee to enter upon the performance of some distinct duty or undertaking which he has agreed with his employer to do, *Hagerty v Montana Ore Purchasing Co.* 38 Mont 69, 98 P 643; the omission to do some act which ought to be performed. A matter of "not doing." 35 Am J1st M & S § 586. Of agent:—the total omission or failure of an agent to enter upon the performance of some distinct duty or undertaking which he has agreed with his principal to do. Anno: 20 ALR 104.

Non fecit. He did not do it,—the name given to a plea which denied that the defendant was the maker of the instrument sued on.

Non fecit vastum contra prohibitionem. He has not committed waste in violation of the prohibition,—a form of plea interposed by a tenant against whom a writ of estrepelement had been brought. See 3 Bl Comm 226.

nonforfeiture provision. A provision of life insurance policy, or of a statute applicable to such a policy, that in the event of the lapse of the policy when it has a reserve value, the insured shall be entitled under options as follows: (1) to receive the cash surrender value; (2) to have the insurance policy continue in force for the full amount for such a period of extended insurance as the reserve, applied on the single-premium basis, will purchase; (3) or to have the policy become a paid-up policy for such amount as the reserve will purchase. 29 Am J Rev ed Ins § 620. The provision in a statute whereby a life insurance company is precluded from issuing a policy which provides for the forfeiture of the same upon failure of the insured to pay a loan on the policy or interest thereon, without reference to the fact, as it may be in a particular case, that the total indebtedness on the policy, principal and interest, is less than the loan value. Keeley v Mutual Life Ins. Co. (CA7 Ill) 113 F2d 633.

non-functional. Lacking in usefulness.

See **functional**.

nongeneral power of appointment. See **special power of appointment**.

Non haec in foedera veni. I did not enter into this agreement. Smith v United States (US) 2 Wall 219, 17 L Ed 788, 792.

nonimmigrant. A person who enters the United States with the intent to spend some time therein but without any idea of becoming a citizen. An alien coming into the country in a status distinct from that of an immigrant, such as that of a student, crewman of a foreign vessel, accredited representative of a foreign government, etc. 8 USC § 1101(15).

Non impedit clausula derogatoria, quo minus ab eadem potestate res dissolvantur a quibus constituuntur. A derogatory clause does not prevent the dissolution of things by the same authority or power by which they were constituted. See Broom's Legal Maxims 27.

Non impedivit. He did not hinder or disturb; a plea of the general issue in an action under a writ of quare impedit. See 3 Bl Comm 249.

non implacitando aliquem de libero tenemento sine brevi. A writ which lay to prevent officers of the law from interfering with a freehold without the king's writ.

Nonimportation agreement. An agreement, made in protest against British taxation, between the American colonies to boycott all goods shipped from the British Isles and the West Indies.

Non infregit conventionem. He did not break the covenant,—a plea which raises a substantial issue in an action for non-repair according to covenant whether there was a want of repairs or not.

Non in legendo sed in intelligendo leges consistunt. The laws consist not in the reading of them, but in the understanding of them.

Non in regno Angliae providetur, vel est aliqua securitas major vel solennior, per quam aliquis statum certiore habere possit, neque ad statum suum verificandum aliquid solennius testimonium producere, quam finem in curia domini regis levatum; quidem finis sic vocatur, ed quod finis et consummatio omnium placitorum esse debet, et hac de causa providebatur. In the kingdom of England there is not provided any greater or more solemn security by which one can have a more certain title, nor can any evidence more solemn be produced for confirming his title than by a fine levied in the

king's court. It is called a fine because it is the finish and the consummation of all suits, and it was provided for that reason. See 2 Bl Comm 349.

nonintercourse laws. Laws prohibiting commerce with another nation. The closing of the ports of a nation to vessels of an offending state and the prohibition of the sailing of vessels from such ports to ports of the offender. 30 Am J Rev ed Internat L§53.

Non interfui. I was not present.

nonintervention will. A will which provides in effect that no bond shall be required of the executor and that the executor is relieved from the duty of reporting his conduct of the administration of the estate to the court.

nonintoxicating liquor. A liquor which although containing some alcohol, will not produce intoxication, even though consumed in quantity. State v Danenberg, 151 NC 718, 66 SE 301.

nonissuable plea. A plea which raises no issue of fact; a plea which does not go to the merits, such as a plea in abatement.

nonjoinder of party. The omission of a necessary party to an action. 39 Am J1st Parties § 110.

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See **necessary party**.

nonjudicial authorities. Boards and officers not vested generally with judicial powers.

nonjudicial day. Same as **nonjuridical day**.

nonjudicial foreclosure. The foreclosure of a chattel mortgage under a power of sale granted to the mortgagee by the terms of the mortgage. 15 Am J2d Chat Mtg § 214. The foreclosure of a mortgage or deed of trust, covering real estate, under a power of sale contained in the instrument or created by a separate instrument; a method of foreclosure infrequent in use but possible under the law of some jurisdictions. 37 Am J1st Mtg § 647.

nonjurable. Incapable of taking an oath.

nonjuridical day. A day upon which judicial proceedings shall not be conducted. Sunday, a day which should not be profaned by the tumult of forensic litigation. Vidal v Backs, 218 Cal 99, 21 P2d 952, 86 ALR 1134.

The courts do not regard statutory or legal holidays as nonjuridical days unless constrained to do so by the terms or the necessary effect of statutes, 50 Am J1st Sun & H § 77.

nonlegal investment. An investment by a trustee which does not qualify as a legal investment.

See **legal investment**.

non juridicus. Nonjuridical; not judicial; not legal.

nonjuror. Any person living in England who refused to make the oath of allegiance to the government.

Non jus ex regula, sed regula ex jure. The law does not come from the rule, but the rule comes from the law.

Non jus, sed seisina facit stipitem. It is not the right, but seism that makes the stock or root.

The meaning of the maxim is, that it is not the mere right to take possession of land, but the actual entry and assumption of possession which vests complete ownership, so as to enable the transmission of the inheritance. See 2 Bl Comm 312.

"(Counsel) rightfully claim that credit is due the courts of this state for repudiating one of the fruits of the feudal system, which has come down preserved to us in the common law maxim, 'Non ins sed seisina,' " etc. See Todd v Oviatt, 58 Conn 174, 20 A 440.

Non licet quod dispendio licet. That is not permitted which can only be permitted with loss.

non licet verdict. See **verdict of non licet.**

nonlienable. Descriptive of an article not the subject of a mechanic's lien.

Non liquet. It is not clear.

nonlitigating party. A person joined as a party but who does not appear and actually litigate the controversy. Atty Gen v Pomeroy, 93 Utah 426, 73 P2d 1277, 114 ALR 726.

nonmailable matter. Matter which cannot lawfully be conveyed in the United States mails or delivered from any postoffice or by any letter carrier. United States ex rel. Milwaukee Social Democratic Publishing Co. v Burleson, 255 US 407, 410, 65 L Ed 704, 709, 41 S Ct 352. Not acceptable for transmission by mail.

nonmaritime contract. A contract which has some relation to or connection with a vessel but does not come within the classification of maritime contracts.

See **maritime contract.**

nonmaritime tort. A tort which does not classify as a maritime tort so as to come within the jurisdiction of admiralty.

See **maritime tort.**

Non memini. I do not remember.

non molestando. A writ which lay to protect a person from threatened unlawful molestation.

nonmoral. Having no connection with morality or morals.

Non nasci, et natum mori, paria sunt. To be born dead, and not to be born at all, are the same thing.

nonnavigable waters. Private waters; waters which are not navigable. 56 Am J1st Wat § 177.

nonnegotiability. The absence of the quality of negotiability in an instrument.

nonnegotiable bill of lading. Any bill of lading which is not negotiable according to the definition in the UCC § 7-104. A bill of lading in which the goods are consigned or destined to a specified person. Uniform Bills of Lading Act §§ 4, 5. Otherwise known as a straight bill of lading.

nonnegotiable chose in action. A right represented by an instrument which is not negotiable.

nonnegotiable instrument. According to a well understood meaning in the law of bills and notes, a term of art which refers only to commercial paper. An instrument which is not negotiable, that is, any instrument which does not meet the requirements

laid down to qualify an instrument as a negotiable one, or an instrument which in its inception was negotiable but has lost its quality of negotiability. *Edgar v Haines*, 109 Ohio St 159, 141 NE 837. An instrument which meets all requirements as to form of a negotiable instrument except that it is not payable to order or bearer. UCC § 3-805. An instrument which, according to the underlying theory of the Uniform Commercial Code, should be governed by all sections of the Code except as to matters concerned with holders in due course. 11 Am J2d B & N §§ 7, 47.

nonnegotiable paper. See **nonnegotiable instrument**.

Non obligat lex nisi promulgata. A law is not binding unless it is promulgated.

Non observata forma, infertur adnullatio actus. When formality is not observed, it is inferred that the act is a nullity.

non obstante. Notwithstanding.

non obstante aliquo statuto in contrarium. Notwithstanding any statute to the contrary. See 1 Bl Comm 342.

non obstante veredicto. Notwithstanding the verdict.

See **judgment notwithstanding the verdict**.

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Non officit conatus nisi sequatur effectus. An attempt works no injury unless a result follows.

Non omne damnum inducit injuriam. It is not every loss that produces the violation of a legal right.

Non omne, quod licet, honestum est. Not all that is lawful is honorable.

The observation is that of Paulus, as quoted in the Digest; "and we have a similar observation from another Paul, who received inspiration from a purer source than the Roman law." (1 Cor, vi. 12.) See *Howell v Baker* (NY) 4 Johns Ch 118, 121.

Non omnium quae a majoribus nostris constituta sunt ratio reddi potest. A reason cannot be given for all of those things which were established by our ancestors.

Non omnium, quae a majoribus nostris constituta sunt, ratio reddi potest; et ideo rationes eorum quae constituuntur inquire non oportet; alioquin multa ex his quae certa sunt subvertuntur. It is impossible to give reasons for all of the laws instituted by our ancestors and so it is not needful to inquire into the reasons; otherwise many of those which are established would be overturned. See 1 Bl Comm 70.

nonowned automobile clause. A clause in an automobile insurance policy extending the coverage to include the casual operation of a car other than that described in the policy. 7 Am J2d Auto Ins § 98.

nonpar stock. Same as **nonpar value stock**.

nonparticipating royalty. See **perpetual nonparticipating royalty**.

nonpartisan ballot. A form of ballot in an election, the most frequent use of which is in connection with the election of judges, wherein the names of candidates appear without party label or emblem. 26 Am J2d Elect § 211.

non-par value stock. Corporate stock, issued as statutes permit, without any nominal or par value. 18 Am J2d Corp § 223. Shares of stock issued by a business trust or Massachusetts trust similar to the no-par shares issued by a corporation. 13 Am J2d Bus Tr § 23.

nonpayment. The failure of an obligor to make payment on the maturity of the obligation. Failure to pay according to the terms of an obligation, the effect of which, in case of a bill or note, may be dishonor and protest.

See **dishonor by nonpayment; protest.**

nonpecuniary damages. Damages for injury of such nature that there is no money standard applicable in measurement of the amount of damages. Broughel v Southern New England Tel. Co. 73 Conn 614, 621. Damages the amount of which depends upon the enlightened judgment of an impartial court or jury, since it is not a matter of mathematical calculation, as illustrated in damages for pain, suffering, and defamation. L. W. Pomereae v White, 70 Neb 171, 97 NW 232.

nonpecuniary injury. See **nonpecuniary damages.**

nonperformance. A failure or omission to perform. The breach of a contract by failure to perform in accordance with the terms and conditions of the contract. 17 Am J2d Contr §§ 355 et seq.

Non pertinet ad judicem secularem cognoscere de its quite sunt mere spiritualia annexa. It does not belong to a secular judge to notice those matters which are purely spiritual.

nonplevin. The failure of a landowner, whose land had been taken by the king, to sue to recover it within fifteen days after the taking.

Prior to Magna Charta, such failure resulted in the owner's loss of his seisin in the land.

non ponendis in assisis et juratis. A writ whereby a person was freed from assize and jury service.

Non possessori incumbit necessitas probandi possessiones ad se pertinere. (Civil law.) The necessity or burden of proving that his possessions belong to him does not fall upon the possessor. See Broom's Legal Maxims 714.

non possumus. We are not able; we cannot.

Non potest adduci exceptio ejusdem rei cuius petitur dissolutio. A plea of the very matter the determination of which is sought cannot be interposed. See Broom's Legal Maxims 166.

Non potest probari quod probatum non relevat. If it were proved would be irrelevant.

Non potest quis sine brevi agere. No one can sue without a writ.

Non potest rex gratiam facere cum injuria et damno aliorum. The king cannot grant an indulgence attended with injury and loss to others.

The meaning is that the king could not grant any pardon or immunity which would release the wrongdoer from prosecution by appeal, since appeals were at the suit of the injured party and not of the king. See 4 Bl Comm 398.

Non potest rex subditum renitentem onerare impositionibus. The king cannot burden a protesting subject with impositions.

Non potest videri deisse habere, qui nunquam habuit. (Civil law.) A person who never had cannot be deemed to have ceased to have.

nonpower boat. Sailboat. 12 Am J2d Boats § 77.

Non praestat impedimentum quod de jure non sortitur effectum. That which is of no consequence in law offers no impediment.

nonprobate assets. Property left by a decedent not subject to administration by his personal representative.

non procedendo ad assisam. See **de non procedendo ad assisam.**

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nonproduction of evidence. The failure of a party to testify, to call an available witness on a material issue, or to introduce documentary evidence within his control. 29 Am J2d Ev §§ 175 et seq.

nonprofit association. An association organized and operating without the purpose of making a profit, such as an association operating for a charitable purpose.

nonprofit corporation. A corporation ordinarily without stockholders, created for or devoted to charitable purposes or supported by charity; a charitable corporation. 18 Am J2d Corp §§ 10, 460.

nonprofit institution. See **charitable institution.**

nonprofit organization. See **nonprofit association; nonprofit corporation.**

non pros. Abbreviation of **non prosequitur.**

non prosequitur. An old form of judgment.

See **judgment of non prosequitur.**

non pros'd. Subjected to a judgment of non prosequitur. In modern usage, nonsuited.

Non quieta movere. Not to disturb that which is settled. A good maxim in jurisprudence. Green v Hudson River Railroad Co. (NY) 28 Barb 9, 22.

Non quod dictum, sed quod factum est, inspicitur. Not what is said, but what is done, is regarded. Osborn v Cook, 65 Mass (11 Cush) 532, 536.

nonquota immigrant. An immigrant who is the child or the spouse of a citizen of the United States; an immigrant lawfully admitted for permanent residence who is returning from a temporary visit abroad; an immigrant born in Canada, Mexico, Cuba, Haiti, Dominican Republic, Canal Zone, or an independent country of central or South America, and a spouse or child of any such immigrant; an immigrant who was formerly a citizen of the United States and is applying for reacquisition of citizenship; an immigrant who was formerly a native-born or naturalized citizen of this country but who has lost his nationality by virtue of obtaining naturalization in a foreign state; an immigrant who is an established minister of a religious denomination and whose services are needed by such religious denomination having a bona fide organization in the United States and the spouse or child of any such immigrant; or an immigrant who is an employee or retired former employee of the United States Government abroad with a total of 15 years service, his accompanying spouse, and any child of his. 8 USC § 110(a)(27).

nonrecording insurance. Insurance designed, subject to certain exclusions or exceptions, to compensate a lender for losses resulting solely from the failure to file for public record an instrument securing a debt, usually a bill of sale, conditional sale contract, or chattel mortgage. American Aviation & General Ins. Co. v Georgia Telco Credit Union (CA5 Ga) 223 F2d 206, 51 ALR2d 316.

nonrecourse provision. The direction in a bill of lading whereby the consignor directs the carrier not to deliver the goods to the consignee until the carrier's charges are collected, thereby relieving himself from being compelled to pay any such charges, where the carrier delivers the goods to the consignee without collecting the charges as directed. New York Cent. R. Co. v Trans American Petroleum Corp. (CA7 111) 108 F2d 994, 129 ALR 206.

See **without recourse**.

Non refert an quis assensum suum praefert verbis, an rebus ipsis et factis. It does not matter whether anyone expresses his assent by words or by acts and deeds.

Non refert quid ex aequipollentibus fiat. It does not matter which one of those things which are equivalent is done.

Non refert quid notum sit judici, si notum, non sit in forma, judicii. It matters not what is known to the judge, if it is not known to him judicially. Riley v Wallace, 188 Ky 471, 222 SW 1085, 11 ALR 337, 340.

Non refert verbis an factis fit revocatio. It does not matter whether a revocation is effected by words or by acts.

nonrefunding annuity contract. Same as **straight annuity**. 4 Am J2d Annui § 1.

nonregistered stockholder. A stockholder in fact who because of the failure of a corporate officer or transfer agent is not recorded as a stockholder on the books of the corporation. A term applied in the older period of superadded liability of stockholders to a stockholder who had his stock registered in a fictitious name or in the name of a person not financially responsible in order to avoid liability as a stockholder.

Non remota causa sed proxima spectatur. Not the remote cause, but the one which is proximate, is regarded.

nonresident. One who is in a place other than that of his domicil or residence.

See **domicil; residence**.

nonresident alien. A person who is neither a citizen nor a resident of this country. 3 Am J2d Aliens § 2. An alien who does not reside within the state. Estate of Gill, 79 Iowa 296, 44 NW 553.

nonresidentio pro clericō regis. A writ which lay to prevent the ouster of a clergyman for nonresidence, where he was absent in the king's service.

nonresident motorist. A status applied to a motorist involved in an accident, usually on a determination of the place of actual residence rather than domicil. 8 Am J2d Auto § 852.

nonresident pupil. A pupil at a public or high school who is not a resident of the school district. 47 Am J1st Sch § 154.

Non respondebit minor, nisi in causa dotis, et hoc pro favore doti. A minor shall not answer except in the case of dower, and this in favor of dower.

nonresponsible party. A person who has no property subject to levy for the enforcement of a judgment against him. A person who by reason of infancy or mental incompetency is not bound upon a contract which he has professed to make.

nonresponsive answer. An answer given by a witness upon examination in a trial or in the taking of a deposition which evades or does not relate to the

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question or interrogatory directed to him. 23 Am J2d Dep § 125; 58 Am J1st Witn § 575.

Non reus nisi mens sit rea. There is no guilt unless there is a guilty intent.

non sanae mentis. Not of sound mind.

nonsane memory. Unsound memory; unsound mind.

nonscheduled airline. An airline operating only chartered flights, maintaining no flights on a fixed schedule of departures and arrivals.

nonscheduled airline passenger. A passenger on the aircraft of a nonscheduled airline. 29A Am J Rev ed Ins § 1261.

nonsense. Unintelligible matter which is contained in a writing.

non seq. An abbreviation of **non sequitur**.

non sequitur. It does not follow.

Non sequitur clamorem suum. He does not press his claim. See 3 Bl Comm 376.

Non solent quae abundant vitiare scripturas. (Civil law.) Those matters which are superfluous do not ordinarily vitiate writings.

Non solum quid licet, sed quid est conveniens considerandum, quia nihil quod inconveniens est licitum. Not only that which is permitted, but that which is convenient or suitable is to be considered, because nothing which is inconvenient or unsuitable is lawful.

non solverunt. They have not paid,—a form of replication interposed upon a defendant's plea of payment. Ware v Hylton (US) 3 Dail 199, 202, 1 L Ed 568, 570.

nonstock corporation. A membership corporation. A corporation not organized for profit and operating under a charter which does not provide for the issuance of stock. American Aberdeen-Angus Breeders Asso. v Fullerton, 325 Ill 323, 156 NE 314; Missionary Baptist State Convention v State, 180 Kan 501, 305 P2d 846.

Non submissit. He did not submit, -the name given to a plea that the defendant did not submit to an arbitration.

non sui juris. Legally incompetent to act for himself in making a contract or in appearing in a cause by himself or through an attorney. 27 Am J1st Inf § 140.

nonsuit. A method of taking the case from the jury for the insufficiency of the plaintiff's proof. 53 Am J1st Tr § 304. A determination that the evidence of the plaintiff is insufficient to support a judgment in his favor, wherefore the case should be taken from the jury. 53 Am J1st Tr §§ 304 et seq. A judgment given against the plaintiff on motion made by the defendant, such motion being in the nature of a demurrer to the plaintiff's evidence, whereby the defendant admits all that the plaintiff has proved to be true, but contends that in law this proof is nevertheless insufficient to entitle the plaintiff to a recovery. 24 Am J2d Dism § 4; 53 Am J1st Tr § 307. A judgment entered by the court when the plaintiff, being called, refuses to appear at the time when the jury is to deliver its verdict, or where the court decides that the plaintiff has given no evidence upon which a jury could find a verdict in his favor. Sandoval v Rosser, 86 Tex 682, 686, 26 SW 933. A judgment given against the plaintiff when he is unable to prove a case, or when he refuses or neglects to proceed to the trial of the cause after it has been put at issue. Deeley v Heintz, 169 NY 129, 132, 62 NE 158. For the purposes of the statute of limitations, a dismissal compelled by the court. 34 Am J1st Lim Ac § 282.

As used in a statute providing that when the plaintiff shall suffer a nonsuit, he may bring a new action within a prescribed time thereafter, it is generally held that the "nonsuit" need not be a technical one, and that the statute applies to a dismissal. The following have been held to be nonsuits within such a provision: a dismissal as to one of several defendants; a dismissal for failure to pay costs; a refusal to set aside an involuntary nonsuit and entry of judgment for the defendant; and, by some authority, the sustaining of a plea in abatement, and a voluntary dismissal by the plaintiff. The following, however, have been held not to be nonsuits within such a provision: the sustaining of a demurrer to a declaration, the exclusion of an item of account by a referee, and a judgment in bar of a claim, where the plaintiff has not pursued the proper remedy. 34 Am J1st Lim Ac § 282.

See **voluntary nonsuit.**

nonsuited. The condition of a plaintiff against whom a nonsuit has been entered.

See **nonsuit.**

Non sum informatus. 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.

Non sunt longa ubi nihil est quod demere possis. Those matters are not prolix or superfluous wherein there is nothing which you can omit.

nonsupport. Failure to furnish support for a person, such as one's wife or child, whom he is obligated by law to support. The statutory offense of a husband who neglects or fails to provide his wife and children, or either, with the necessities of life. Anno: 44 ALR2d 892. As ground for a divorce, the intentional failure of the husband to support his wife, without lawful excuse, when he had the ability to support her. Svanda v Svanda, 93 Neb 404, 140 NW 777.

Non suspicio cujuslibet vani et meticulosi hominis, sed talis qui possit cadere in virum constantem; talis enim esse metus, qui in se contineat vitae periculum, aut corporis cruciatum. It must not be the apprehension of a foolish and fearful man, but such as would affect a courageous man; it should be such fear as would involve danger to life or bodily pain. See 1 Bl Comm 131.

Non temere credere, est nervus sapientiae. Not to believe rashly is the bowstring of wisdom.

Non tenuit. He did not hold,—a name which was given to a pleading in actions of replevin

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whereby the plaintiff alleged that he did not hold the goods as alleged in the defendant's avowry.

nontenure. The name given to a plea in a real action wherein the defendant denied his tenancy.

nonterm. A period between two terms of court.

nonterminus. A period between terms of court.

nontestamentary assets. Property left by a testate decedent which does not pass under his will.

nontestamentary paper. An instrument not executed in such manner as to be entitled to probate as the will of a decedent.

nontrading firm. See **nontrading partnership**.

nontrading partnership. A partnership whose business does not involve buying and selling as a day to day activity. 40 Am J1st Partn § 12.

nonunion goods. Articles produced by a nonunion shop.

nonunion workers. Employees in a plant who do not belong to a labor union.

nonuser. Absence of user; want of user, as of an easement. 25 Am J2d Ease § 105. Failure to use premises for the purpose for which dedicated. Adams v Rowles, 149 Tex 52, 228 SW2d 849. The failure of a public body which has taken land for a public use to devote the property to such use within a reasonable time. 26 Am J2d Em D § 146. A possible method of abandoning a highway. 25 Am J1st High § 112. The failure to exercise a franchise within a reasonable time in accordance with the condition which inheres in the nature of the grant. The nonperformance by a corporation of conditions or requirements upon which its privileges and franchises were conferred. 19 Am J2d Corp § 1619.

Non valet confirmatio, nisi ille, qui confirmat, sit in possessione rei vel juris unde fieri debet confirmatio; et eodem modo, nisi ille cut confirmatio fit sit in possessione. A confirmation is not valid unless he who confirms is in possession of the thing or of the right whereof confirmation is to be made, and in the same manner, unless he to whom the confirmation is to be made is in possession.

Non valet exceptio ejusdem rei cuius petitur dissolutio. A plea of the very matter the determination of which is sought is not valid.

Non valet impedimentum quod de jure non sortitur effectum. An impediment or bar which has no effect in law will not avail.

Non verbis sed ipsis rebus. leges imponimus. We do not impose laws upon words, but upon the things themselves.

Non videntur, qui errant, consentire. Those who err are not deemed to consent. A maxim is of universal application as well as of universal justice. Earle v De Witt, 88 Mass (6 Allen) 520, 543.

Non videntur rem amittere quibus propria non fuit. Persons to whom a thing did not belong are not deemed to lose it.

Non videtur consensum retinuisse si quis ex praescripto minantis aliquid immutavit. Anyone is not deemed to have withheld his consent who has changed anything by the direction of a person who threatens him. See Broom's Legal Maxims, 278.

Non videtur perfecte cujusque id esse, quod ex casu auferri potest. (Civil law.) That is not deemed to belong to a person completely which can, upon occasion, be taken away.

Non videtur quisquam id capere, quod ei necesse est alit restituere. (Civil law.) Anyone is not deemed to recover that which he is obliged to give up to another.

Non videtur vim facere, qui jure suo utitur, et ordinaria actione experitur. (Civil law.) He is not deemed to use force who exercises his own right and sues in an ordinary action.

non vult contendere. See **plea of non vult contendere.**

Non vult contendere cum domina regina et posuit se in gratiam curiae. The defendant does not wish to contend with our mistress, the queen, but puts himself upon the mercy of the court. Commonwealth v Shrope, 264 Pa 246, 107 A 729, 6 ALR 690, 692.

non vult prosequi. He will not prosecute. See 1 Bl Comm 268.

nonwaiver agreement. See **nonwaiver clause.**

nonwaiver clause. A clause in an insurance policy limiting the power of agents to waive conditions of the policy or restricting the manner in which a waiver of such condition may be made. 29A Am J Rev ed Ins § 1040.

nonwhite. A person not of the white race, such as a Mongolian or Negro.

noon. Twelve hours after midnight, the sun being at meridian. Abbreviated "M." The beginning of the sidereal day used by the astronomers. 52 Am J1st Time § 14. The middle of the day in common parlance.

noonday. Noon; midday. noon hour.

See **lunch hour.**

no-par shares. See **non-par value stock.**

No Popery Riots. Riots of unprecedented magnitude which occurred in London in June, 1780.

A mob of sixty thousand persons had control of the city for several days. The authorities were paralyzed. The cause of it was Lord George Gordon's petition to parliament for the repeal of Sir George Saville's act for the relief of Catholics. The riot spread throughout the kingdom. London was in a state of anarchy. On June sixth, thirty-six fires set by the mob were raging. The Fleet and King's Bench prisons were fired, and the prisoners released. All public buildings were threatened; many private homes were sacked and burned. More

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than four hundred and fifty persons were killed. The military finally subdued the mob. The courts held the respective hundreds liable for the losses in them. County of Allegheny v Gibson, 90 Pa 397.

no property found. A return of a writ of execution, somewhat wanting in perfection and completeness, but indicating the absence of property of the defendant upon which to make a levy. 21 Am J2d Exec § 478.

nor. A conjunction properly used in connection with "neither" in stating a negative proposition. State ex rel. Crow v St. Louis, 174 Mo 125, 73 SW 623.

no-raiding agreement. An agreement between rival labor unions that neither will solicit a member of the other for the purpose of inducing a change of membership. *United Textile Workers v Textile Workers Union* (CA7 Ill) 258 F2d 743.

no recourse. See **without recourse**.

normal school. A teachers' college. *State Teachers College v Morris*, 165 Miss 758, 144 So 374; *Normal School Dist. v Painter*, 102 Mo 464, 14 SW 938. A school particularly for the education and training of school teachers. 15 Am J2d Colleges § 4. Not a common or public school. 15 Am J2d Colleges § 1.

Norman Conquest. The conquest of England by the Normans in 1066, under William of Normandy.

Norman French. See **Law French**.

Norris-LaGuardia Act. A federal statute of 1932 which prohibits the issuance of injunctions in federal courts in cases involving or growing out of labor disputes, as therein defined, except in strict accord with the provisions of the statute. 29 USC §§ 101-115; 31 Am J Rev ed Lab §§ 541 et seq.

Statutes substantially the same as the Norris-LaGuardia Act have been enacted in a number of states, although some apply to the granting of ex parte and temporary injunctions only. 31 Am J Rev ed Lab § 541.

north. Due north, unless qualified or controlled by other words of the context in which it appears. 23 Am J2d Deeds § 248. A compass point; the direction of the north pole from any other point on the earth's surface.

Northampton table. A mortality table. 20 Am J2d Ev § 895.

See **mortality table**.

Northeastern Interstate Nuclear Compact. A compact similar to that of the Southern Interstate Nuclear Compact, proposed for and under consideration by northeastern states. 6 Am J2d Atomic E § 46.

See **Southern Interstate Nuclear Compact**.

northeast quarter. See **fraction of section**.

north one-half. See **fraction of section**.

Northwest Ordinance of 1787. An ordinance passed by Congress for the government of the Northwest Territory, the provisions of which were superseded by the adoption of the Constitution of the United States and are in force only as continued in force by acts of Congress after the adoption of the Constitution. 16 Am J2d Const L § 16.

northwest quarter. See **fraction of section**.

Northwest Territory. The public domain of the United States following the successful conclusion of the Revolutionary War and the making of a treaty of peace with England, lying west of the state of New York and north of the Ohio River. The domain from which the states of Ohio, Indiana, Illinois, Michigan, Wisconsin and part of Minnesota were formed. A territory of Canada extending from the northern boundaries of British Columbia, Alberta, Saskatchewan, and Manitoba beyond the Arctic Circle.

Noscitur a sociis. One is known by his companions.

The maxim is applied to the familiar rule of construction that the meaning of a word or expression may be gathered from the surrounding words, that is, from the context. 50 Am J1st Stat § 247.

Noscitur ex socio, qui non cognoscitur ex se. A person who may not be known by himself is known by his companion.

nota. (Civil law.) A note; a memorandum; a distinguishing mark or sign; a brand.

notabilia. See **bona notabilia.**

not administered. Literally, assets of a decedent, sometimes his entire estate, not subjected to administration in a probate court.

At common law, goods, chattels, and credits "not administered," meant goods, chattels, and credits which had been the property of the decedent at his death, and remained in specie, unchanged and unconverted when the administrator de bonis non was appointed. Thus, money received by the former executor or administrator in his representative capacity, and kept by itself separate from his own money, is regarded as "not administered;" but if mixed and mingled with his own money, so that its identity is gone, it is regarded as converted, and so "administered," so far as the administrator de bonis non is concerned. Chamberlin's Appeal, 70 Corm 363, 39 A 734.

notare infamia. (Civil law.) To mark or brand a person as a mark of infamy.

notarial. Pertaining or relating to the office or functions of a notary; made or done by a notary.

notarial act. The execution of a deed or contract, such as a contract of adoption, before a notary public. Succession of Thomson, 221 La 791, 60 So 2d 411.

notarial seal. An official seal of a notary public which, when duly affixed, is at least *prima facie* evidence of the notary's official character and raises a presumption of the truth of statements made by the notary in such character.

The form of the seal is sometimes provided by law, but such a provision has been held merely directory. If a seal is required, he cannot use a private one, but must adopt an official seal inscribed as he may choose, but capable of making a definite and uniform impression on the paper authenticated or on some tenacious substance attached thereto. It is no longer necessary to use wax or some other adhesive substance on which the seal may be impressed and if the law does not positively prescribe otherwise, it is enough that the impress be made upon the paper itself in such manner as to be readily identified on inspection. 39 Am J1st Notary § 34.

notarius. In old English law, a notary or conveyancer. (Roman law.) A rapid writer; a short-hand writer; an amanuensis.

notarizing. Certifying as a notary to the authenticity of a signature on a document.

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notary. Same as **notary public.**

notary public. An officer whose duty is to attest the genuineness of deeds or writings in order to render them available as evidence of the facts therein contained, 39 Am J1st Notary § 2, and who is authorized by statute to administer various oaths. 39 Am J1st Oath § 9.

notary's certificate. The certificate of a notary public living nearest the place of a fire, the loss under which is covered by an insurance policy, stating that he has examined the circumstances and believes that the insured has actually sustained loss to the amount specified in the certificate. 29A Am J Rev ed Ins § 1405. Broadly, any certification made by a notary public in an official capacity.

notary's record book. A record book which notaries are required in some jurisdictions to keep and to enter therein their notarial acts, which book must be deposited in a designated public office when the notary dies, resigns, or is removed from office, a certified copy of the record being made competent evidence. 39 Am J1st Notary § 45.

notary's seal. See **notarial seal**.

notation. A writing appearing upon an instrument but not in the regular formal order of the instrument. 17 Am J2d Contr § 263.
See **marginal notation**.

notch sensitive. A term applied to metals the useful life of which seems to be much more affected by stress than that of others. Northwest Airlines, Inc. v Glenn L. Martin Co. (CA6 Ohio) 224 F2d 120, 50 ALR2d 882, reh den 229 F2d 434, 50 ALR2d 897.

not due. See **not payable presently**.

note. A notation. A written promise to pay another a certain sum of money at a certain time. Grissom v Commercial Nat. Bank, 87 Tenn 350, 10 SW 774. A kind of commercial paper. UCC § 3-104(2). A negotiable promissory note. Uniform Negotiable Instruments L § 191. A term used interchangeably with promissory note. Shawano Finance Corp. v Julius, 214 Wis 637, 254 NW 355.

note an exception. A professional request, made with deference to the trial judge, but constituting the method of having made of record for use on appeal an exception to a ruling of the judge.

note in payment. A note given in satisfaction or extinguishment of a claim against the maker. 40 Am J1st Paym § 91.

note of a fine. An abstract of the writ of covenant, and the concord; naming the parties, the parcels of land, and the agreement, enrolled of record in the proper office in the process of alienating land by levying a fine. See 2 Bl Comm 351.

note of allowance. A note delivered by one of the masters of the court to a party to an action evidencing the right of the latter to prosecute a writ of error under the English practice.

note of hand. A name given generally by the unlearned, in common, to all those evidences of debts which are verified under the hand of the debtor, and which the creditor keeps.

It is not an apt legal term to describe a debt by judgment; nor is it ever used in that sense as its popular one. Perry v Maxwell, 17 NC (2 Dev Eq) 488, 496.

note of protest. A note of the fact of the protest of a negotiable instrument indorsed thereon by a notary at the time of its protest.

See **memorandum; municipal note; promissory note; public note**.

notes of stenographer. See **stenographer's notes; stenographic notes of court reporter**.

notes of the United States. See **United States notes**.

notes used in circulation. Notes issued by national banks and circulating as currency. United States v White (CC NY) 19 F 723. 724.

note to be renewed until paid in full. A provision in a note for indefinite renewal, but not to be construed as meaning that the maker has as much time as he desires to make payment of the principal sum, he being entitled to one renewal for the period specified in the original note, with no right to a renewal thereafter. *Riepl v Sardino*, 262 Wis 670, 56 NW2d 493, 35 ALR2d 1087.

not exempt by law. Not exempt under either federal or state law. 31 Am J2d Exemp § 7.

not found. The formal words which are indorsed on a bill of indictment by a grand jury upon its failure to indict the person named as accused in the bill. A form of return of a writ, summons, or notice, by which the officer holding the paper for service states the impossibility of making service due to inability to find the defendant or other person upon whom it should be served. A condition precedent under some statutes to service by publication. 42 Am J1st Proc § 89.

See **no property found.**

not guilty. See **plea of not guilty.**

not guilty verdict. See **verdict of not guilty.**

not hereinbefore disposed of. A familiar term in a residuary clause of a will, usually effective to determine that lapsed legacies and devises pass under the residuary clause. 57 Am J1st Wills § 1449.

nothus. (Roman law.) Spurious; not genuine; an illegitimate; a bastard.

notice. In common parlance, information, intelligence, or knowledge. In law, actual notice, constructive notice, express notice or implied notice. 39 Am J1st Notice § 3. The acclaim or criticism in the press of the performance of an actor, musician, or dancer.

Whatever is sufficient to put a person upon inquiry is notice of all the facts to which that inquiry will lead when prosecuted with reasonable diligence and in good faith. *Texas Co. v Aycock*, 190 Tenn 16, 227 SW2d 41, 17 ALR2d 322.

See **actual notice; constructive notice; express notice; implied notice; personal notice.**

notice as soon as practicable. As required of an insured or a person protected by a fidelity bond in reference to a loss, notice within a reasonable time after discovery of the loss. Anno: 23 ALR2d 1083; 29A Am J Rev ed Ins § 1379.

notice in pais. A notice outside the record or writing; a notice not on the face of the record or writing.

For example, one who has signed a bond is not liable to the obligee thereon if the latter had notice either from the face of the bond or "in pais," that others were to sign it before delivery. 12 Am J2d Bonds § 18.

notice in person. Actual notice. *Travelers' Ins. Co. v Farmers' Mut. Fire Ins. Asso.* 211 Iowa 1051, 233 NW 153.

See **personal notice.**

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notice in writing. Ordinarily a notice given in writing and subscribed by the person giving notice thereby.

A written notice may be a sufficient "notice in writing," although it is not signed, provided it purports to come from the person whose duty it is to give the notice. *Cohn v Smith*, 37 Cal App 764, 174 P 682.

notice of accident or claim. A notice required of the insured under a liability policy, to be given to the insurer respecting the occurrence of an accident or of a claim for damages resulting therefrom. 7 Am J2d Auto Ins § 141.

notice of action or proceeding. The formal notice required to confer jurisdiction; a summons or original notice.

A distinction is to be observed between knowledge of the pendency of an action or proceeding and notice thereof. If a defendant does not submit himself to the jurisdiction of the court, jurisdiction can be acquired in no other way than by actual or constructive notice, whatever he may know of the existence of the proceedings. *National Metal Co. v Greene Consol. Copper Co.* 11 Ariz 108, 89 P 535.

notice of appeal. The method of initiating a proceeding for appellate review, consisting of a notice as provided by statute, designating the court to which an appeal is taken, the judgment, order, or decree to be reviewed, stating the relief sought on appeal, the parties appealing, and the parties against whom relief is sought on appeal, such notice to be served and filed in accordance with statutory requirements. 4 Am J2d A & E §§ 316 et seq.

notice of appearance. The formal method of appearing in an action or proceeding. A written notice of appearance filed in the action or proceeding or a notice given orally in open court by a party or, in the usual case, by his attorney, stating that he appears. 5 Am J2d Appear § 14.

See **general appearance; special appearance.**

notice of arrival. A notice given by a common carrier to the consignee of a shipment of goods of the arrival of the goods at their destination. 13 Am J2d Car § 398.

notice of assignment. A notice of an assignment of a chose in action given to the debtor for the purpose of completing the assignment and vesting title in the assignee, especially for the purpose of precluding the debtor of the right to deal with the original creditor by making payment or otherwise in reference to the subject matter of the assignment. 6 Am J2d Assign § 96.

notice of attorney's lien. A notice of an attorney's special or charging lien upon a judgment recovered by him on behalf of his client, as such may be required by statute to be given the adverse party. 7 Am J2d Attys § 287.

notice of claim. A notice of claim for damages against a municipal corporation or other public body asserted for tortious injury to person or property, required by statute as a condition precedent to an action at law to recover on such claim. 38 Am J1st Mun Corp § 673. A notice of claim against a municipal corporation required by statute of a more comprehensive nature, embracing both ex contractu and ex delicto claims. 38 Am J1st Mun Corp § 677. A notice of the location of a mining claim. 36 Am J1st Min & M § 79.

notice of copyright. An indispensable part of the process by which the copyright of a published work is secured; a notice in form prescribed by statute, located in each published copy in the position prescribed by statute, and stated in the English language. 18 Am J2d Copyr § 56. For example, "Copyright (c) 1967 by Jurisprudence Publishers, Inc."

notice of defects. A notice of defects in a railroad fence or cattle guards required as a condition of the duty of the railroad company to repair such defects. 44 Am J1st RR § 163. A notice of the defective condition of a highway or street, required as a condition of municipal liability for injuries due to the defects. 25 Am J1st High § 441. A notice given by the purchaser to the seller of goods, wares, or merchandise of defects constituting a breach of warranty, sometimes required by a provision in the contract of sale, and always a matter of good practice before commencing an action for breach of warranty. 46 Am J1st Sales §§ 714 et seq.

notice of directors' meeting. A requirement where the meeting is a special one, calling for personal service, if practicable, upon every member of the board entitled to be present. 19 Am J2d Corp § 1133.

notice of discovery. A notice of location of a mining claim. 36 Am J1st Min & M § 79.

See **notice of location.**

notice of dishonor. A notice that a bill or note has been dishonored by nonacceptance or nonpayment. An essential of a cause of action of the holder against an indorser or drawer, unless waived or dispensed with, as where, under the circumstances, it cannot be given although due diligence be exercised in an attempt to give it. 11 Am J1st B & N § 801.

notice of dismissal. A notice filed by the plaintiff or served upon the defendant, as the statute may require, upon the voluntary dismissal of an action. 24 Am J2d Dism § 48.

notice of election. The notice, usually by publication, through which the voters are informed of the time, place, and purpose of an impending election. 26 Am J2d Elect § 193.

notice of excavation. A notice given by an owner of land to an adjoining owner of intent to make an excavation, thereby giving the adjoining owner opportunity to protect his premises against the excavation. 1 Am J2d Adj L § 51.

notice of exemption. A demand or claim that property seized under process for debt be released as exempt. 31 Am J2d Exempt §§ 142 et seq.

notice of forfeiture. A notice in a proceeding in rem for the forfeiture of property admonishing the owner and all other persons claiming any right, title, or interest in the property seized to appear and show cause on or before a day named why forfeiture of the property should not be decreed in accordance with the prayer of the libel or information. 36 Am J2d Forf & P § 36.

notice of infringement. See **notice of patent right.**

notice of intention to move for a new trial. A notice required by statute in some states to be served upon the adverse party by the party intending to move for a new trial, designating the statutory grounds upon which the motion will be made, and whether it will be made upon affidavits or the minutes of the court, or bill of exceptions, or a statement of the case. 39 Am J1st New Tr § 179.

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notice of judgment. Notice to the party against whom a judgment has been rendered of the entry of the judgment, usually a matter of constructive notice from the docketing and indexing, but in a few instances required by statute as a matter of the giving of a formal notice. 30A Am J Rev ed Judgm § 98.

notice of lien. See **notice of attorney's lien; notice of mechanic's lien.**

notice of lis pendens. The common-law doctrine that a pending suit is notice to all the world, so that one who purchases property involved in the litigation takes it subject to, and is bound by, the judgment rendered therein. 34 Am J1st Lis P §§ 2, 3.

See **notice of pendency.**

notice of location. (Mining law.) A notice required by statute or local regulation in all, or nearly all, the mining states and territories to be posted on a mining claim sought to be located, containing the name of the locators, the name of the claim and the date of the location. 36 Am J1st Min & M § 79.

notice of loss. A notice of the occurrence of a loss, required to be given by insured to the insurer, as provided by the contract of insurance or statute, within a limited period of time. 29A Am J Rev ed Ins §§ 1373-1439.

See **proof of loss.**

notice of mechanic's lien. A notice required by statute in many jurisdictions to be given the owner of property by one claiming a mechanic's lien thereon, not for work performed or materials furnished under a contract with the owner, but for work on the

premises performed in the capacity of a subcontractor or mechanic or for materials furnished under a contract with the principal contractor. 36 Am J1st Mech L § 125.

notice of motion. A means of bringing a motion on for hearing. A formal notice by one of the parties to an action that a motion described therein will be made before the court at the time and place stated in the notice.

notice of patent right. A notice given by a patentee or his assignee, if he makes or sells the article patented, of his patent right, either to the whole public by marking the article "patented" or to an infringer by informing him of the patent and of his infringement of it. 40 Am J1st Pat § 185.

notice of pendency. A notice filed in an action to recover a judgment affecting either title or possession, use or enjoyment of real property, for the purpose of giving notice on the record that there is a lien or claim outstanding and in force against the particular property, in effect a public announcement to beware of the title since it has a defect. A statutory requirement in states wherein the common-law doctrine of lis pendens has been modified, of a notice setting forth the style, number, and objective of an action, the court in which it is pending, a description of the property in controversy, and the names of the persons whose interests therein are sought to be affected, to be signed either by the party in whose behalf it is filed or by his attorney. 34 Am J1st Lis P § 24.

See **notice of lis pendens.**

notice of protest. See **protest.**

notice of stockholders' meeting. A statutory requirement in most jurisdictions to be observed according to the terms of the statute and, in the absence of a form prescribed by statute, to be met by any form of notice which informs stockholders that a meeting has been called and of its time and place, provided the hour as well as the day is specified, and, when necessary under the statute, a statement of the purposes of the meeting. 19 Am J2d Corp §§ 608 et seq.

Where notices are specific as to the time, place, and purpose of a meeting, and comply with the statute, substantial compliance with bylaws relating to the calling of stockholders' meetings is all that is required. Boericke v Weise, 68 Cal App 2d 407, 156 P2d 781.

notice of suit. See **notice of action or proceeding.**

notice of taking. A notice of the taking of a deposition, generally required by statute in order that the adverse party be afforded an opportunity to be present or to file cross-interrogatories. 23 Am J2d Notice § 34.

notice to perform. A method by which one party to a land contract may fix upon and assign a reasonable time for completing the contract, calling upon the party in default to perform according to the conditions of the contract. 55 Am J1st V & P § 115.

notice to plead. A notice in writing served upon the defendant in an action by the plaintiff, apprising the defendant of the time within which he must plead.

notice to produce. A notice given to the adverse party to produce books or papers in his possession, the purpose of which is to permit the party giving notice to introduce parol or secondary evidence of contents on failure of the adverse party to produce in accordance with the terms of the notice. 29 Am J2d Ev § 842.

notice to quit. Notice terminating a tenancy. 32 Am J1st L & T § 993. A notice required under some circumstances as a condition precedent to an action for forcible entry and detainer. 35 Am J2d Forc E & D § 34. A notice usually required as a condition precedent to an action of ejectment where the defendant entered and held possession legally in the beginning. 25 Am

J2d Eject § 56. A notice sometimes required as a preliminary to the execution of a writ of possession issued on a judgment in ejectment. 25 Am J2d Eject § 136.

notice to shore up. The notice to the adjoining landowner, which is required in most jurisdictions, to be given by the owner of land of his intention to make an excavation thereon, so that the adjoining owner may take the necessary precautions to protect the buildings on his land. 1 Am J2d Adj L § 51.

notified. Having been given notice.

In legal proceedings and in respect to public matters, the word is generally if not universally used as importing a notice given by some person whose duty it was to give it, in some manner prescribed, and to some person entitled to receive it, or be notified. Potwine's Appeal from Probate, 31 Conn 381, 384.

notified blockade. An established blockade of an enemy port, notice of which has been given to other governments. 56 Am J1st War § 172.

not impeachable for waste. See **unimpeachable for waste.**

not in consonance. Not in accord or agreement; inconsistent. Caldwell v Huffstutter, 173 Tenn 225, 116 SW2d 1017.

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not in esse. Not in being.

noting protest. The memorandum, made on the instrument or on some other record, at the time of and embracing the principal facts attending dishonor, the purpose of which memorandum is to have a record from which the instrument of protest may be prepared, so that the notary will not be required to rely upon his memory as to the facts. Moreland v Citizens Sav. Bank, 114 Ky 577, 71 SW 520.

As soon as the presentment and demand of a negotiable instrument have been made, or at some seasonable hour during the same day, the notary makes a minute on the bill, or in his book of registry, consisting of his initials, the month, the day, the year, the refusal or acceptance of payment, and his charges of protest. This is the preliminary step towards the protest, which may be afterwards written out in full, "extended," as the elaboration of the minutes is termed, and it is called "noting." Bank of Ohio Valley v Lockwood, 13 W Va 392, 432, quoting Daniel on Negotiable Instruments.

notitia. Notice; knowledge; information.

Notitia dicitur a noscendo, et notitia non debet claudicare. Notice is so called from "noscendo," becoming known, and notice ought not to be defective.

not less than 10 years. A statutory clause expressing the statutory minimum sentence. Anno: 59 ALR2d 975.

not negotiable. Lacking the character of negotiability.

See **nonnegotiable instrument.**

not of inheritance. See **estate not of inheritance.**

notoriety. The state of being well known in the community; a matter of hearsay when offered to prove that which is reputed to exist. 29 Am J2d Ev § 503. The state or character of being well known, usually (and always when applied to crime) in an unfavorable sense. People v Salmon, 148 Cal 303, 83 P 42.

not original bill. See **bill not original.**

notorious. Unfavorably known to many persons. The open and general recognition of an illegitimate child by the father. 10 Am J2d Bast § 52.

A "notorious character" means a general character, and evidence of general character is admissible under an indictment using the term "notorious bad character." Leader v State, 4 Tex App 162.

notorious adultery. See **open and notorious adultery.**

notorious claim. A claim so well known in the community that one may be presumed to have had knowledge or notice thereof, including the extent of it. Watrous v Morrison, 33 Fla 261, 14 So 805.

notorious custom. A custom so generally known as to affect a contracting party with knowledge of it and raise the presumption that he dealt with reference to it. 21 Am J2d Cust & U § 17.

notorious possession. The possession of real property in a clearly defined and open manner. 25 Am J2d Eject § 43.

See **open and notorious possession.**

notorious recognition. See **general and notorious recognition.**

notorious resistance to lawful authority. A state of affairs so unusual and extraordinary that the usually constituted civil authorities are overpowered and consequently unable and inadequate for the time being successfully to contend therewith. Straus v Imperial Fire Ins. Co. 94 Mo 182, 6 SW 698.

not otherwise provided for. A common phrase in statutes, referring solely to the statute in which they occur. 21 Am J2d Cust D § 38.

not possessed. A name given to a plea in an action of trover which denied the possession of the plaintiff.

not proven. A form of Scotch verdict which acquitted the defendant of the charge against him, but left a suspicion upon him.

not satisfied. An irregular return of a writ of execution, intended as the equivalent of a return of "no goods" or "nulla bona". 30 Am J2d Exec § 562.

not served for want of property. An irregular return of a writ of execution, apparently intended as the equivalent of a return of "no goods" or "nulla bona." 30 Am J2d Exec § 562.

not to be performed within a year. See **agreement not to be performed within a year.**

not to interrupt. Words used in creating a covenant to stand seized.

A recital in a deed poll that the grantees are "not to interrupt" the grantor "during his lifetime, on the said premises," amounts to a covenant by the grantor to stand seized to his own use for life, with remainder to his grantees. 28 Am J2d Est § 348.

not to sue. See **covenant not to sue.**

n. o. v. Abbreviation of **judgment notwithstanding the verdict.**

nova. (Roman law.) New things; political changes; revolutions.

Nova constitutio futuris formam imponere debet, non praeteritis. A new law ought to be prospective, not retrospective, in its operation. 50 Am J1st Star § 478.

nova customa. New and increased customs duties, as distinguished from the ancient hereditary customs. See 1 Bl Comm 314.

Novae Narrationes. New Counts:—the title of a book on pleading published about 1350.

This book was also called The New Talys. See 3 Bl Comm 297.

Nova Statuta. The New Statutes,—a name given to the statutes of England beginning with those enacted in the reign of Edward the Third, 1327.

novatio. (Civil law.) A novation.

novation. The extinguishment of one obligation by another, a concept of the civil law introduced into common-law jurisprudence. 39 Am J1st Nov § 2. A contract that discharges immediately a previous contractual duty or a duty to make compensation and creates a new contractual duty, including as a party one who neither owed the previous duty nor was entitled to its performance. 2 Restatement, Contracts § 424. A mutual agreement among all parties concerned for the discharge of a valid existing obligation by the substitution of a new valid obligation on the part of the debtor or another, or a like agreement for the discharge of a debtor to his creditor by the substitution of a new creditor.

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Greenwood Cotton Mill v Pace, 172 SC 531, 174 SE 423.

Novatio non praesumitur. A novation will not be presumed. Morecraft v Allen, 78 NJL 729, 75 A 920.

novel. Adjective: New; recent. Noun: A narrative with plot in which the author has a property right and is entitled to copyright. 18 Am J2d Copyr §§ 10, 36.

See **Novels**.

novel assignment. Same as **new assignment**.

novel case. A case for which no precedent can be found. 52 Am J1st Torts § 8. A peculiar or extraordinary case arising in the complex and diversified affairs of men which cannot be classified under any, of the distinct heads under which jurisdiction has theretofore been administered. 27 Am J2d Eq § 12.

novel design. See **novelty**.

novel disseisin. New or recent disseisin,—a writ of assize which lay to recover land of which the defendant had been recently seised. See 3 Bl Comm 187.

novel impression. See **first impression**.

Novellae. Same as **Novels**.

Novellae Constitutiones. Same as **Novels**.

Novels. The New Constitutions-Novellae Constitutiones—which were laws promulgated by Justinian and his successors. See Mackeldey's Roman L §§ 80 et seq.

See **novel**.

novelty. An essential requisite of the patentability of an invention or discovery. A device or process unknown and unused by others prior to its invention or discovery by the applicant for a patent. 40 Am J1st Pat §25.

As used in the patent law the term "novel design" means a thing of distinct and fixed individuality of appearance, a representation, a picture, a delineation, a device which addresses itself to the senses and taste, and produces pleasure or admiration in its contemplation. New York Belting & Packing Co. v New Jersey Car-Spring & Rubber Co. 137 US 445, 34 L Ed 741, 11 S Ct 195.

Noverint universi per praesentes. Know all men by these presents.

novigild. (Saxon.) A ninefold compensation which was in certain cases exacted for injuries to property.

Novi operis nunciatio. (Civil law.) An objection to or protest against a new work.

See **new work**.

Novis injuriis emersis nova constituere remedia. New injuries having arisen, to establish new remedies for them. See 1 Bl Comm 148.

Novitas non tam utilitate prodest quam novitate perturbat. That which is new or novel does not benefit so much by its usefulness as it disturbs by its novelty.

Noviter ad notitiam perventa. (Ecclesiastical law.) Matters which have recently come to one's notice.

Noviter perventa. Same as **noviter ad, etc.**

novo. See **de novo**.

novocain. A local anesthetic but one which may result in disabling and painful consequences due to hypersusceptibility of the patient. 29A Am J Rev ed Ins § 1211.

novodamus. We grant anew,—the granting clause in a renewal charter or franchise.

Novum judicium non dat novum jus, sed declarat antiquum. A new judgment does not promulgate a new law, but declares the old law.

Novum opus. (Civil law.)

Same as **new work**.

novas homo. A new man,—a man who has been pardoned of a crime.

now. At the moment; presently; contemporaneously. Pike v Kennedy, 15 Or 420, 15 P 637.

Where a lease is to commence in futuro and the covenant of the lessee is to redeliver the premises in the condition they "now are," without specific reference to the time intended, the tendency of the courts is to construe the phrase as relating to the

condition of the premises at the time the term commences, not the time of the execution of the lease. Anno: 45 ALR 30, s. 106 ALR 1361.

now for then. See **nunc pro tunc**.

now standing. A term of a contract for, the sale of standing trees, relating to trees in their size and condition at the time of the execution of the contract, rather than at the time of cutting and removal. Anno: 94 ALR 1420; 34 Am J1st Logs § 22.

noxa. (Civil law.) An injury committed on the person or property of a person by the slave, servant or animal of another.

noxal action. Same as **noxalis actio**.

Noxalis actio. (Civil law.) An action against the owner of a slave or an animal for injuries to persons or property committed by them.

Noxa sequitur caput. (Civil law.) The injury (committed by the slave or animal) follows the head (the master).

That is, the owner was liable for the acts of his slave or his animal. See Mackeldey's, Roman L § 510.

noxia. Same as **noxa**.

noxious business. See **offensive business**.

noxious fume. A gas which is sickening or discomforting. 39 Am J1st Nuis § 58. A gas which is destructive of life, whether animal or vegetable. Pennsylvania Lead Co.'s Appeal, 96 Pa 116.

noxious odor. A bad smell.

noxious substance. A substance which, when administered, is capable of destroying life, but which is not necessarily poisonous.

Pulverized glass, when administered in sufficient quantities, destroys life, but is not poisonous. People v Van Deleer, 53 Cal 147.

noysance. Same as **nuisance**.

N. P. Abbreviation of "Notary Public." 1 Am J2d Abbr § 5.

NS. Abbreviation of new series.

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nubibus. See **in nubibus**.

nubile. Of sufficient age and physical development for marriage.

nubiles. See **anni nubiles**.

nubilis. (Civil law.) Old enough to marry; of marriageable age; marriageable.

Nuclear Compact. See **Northeastern Interstate Nuclear Compact; Southern Interstate Nuclear Compact**.

nuclear explosion. An explosion incident to nuclear chain reaction. An explosion resulting from the development of energy by nuclear fission or nuclear fusion.

Nuclear Facilities Liability Act. A statute proposed by the National Conference of Commissioners on Uniform State Laws to be applied to the more hazardous types of atomic energy activities, such as those in nuclear reactor installations, wherein a potentiality of an uncontrolled nuclear chain reaction exists, providing in substance that a nuclear facility operator who has entered into an indemnification agreement with the Atomic Energy Commission shall be liable, without proof of fault, for injuries (except those compensable under workmen's compensation laws and injuries to the nuclear facility or to property located at the site and used in connection with the facility) arising out of or resulting from a nuclear incident caused by any reason other than an act of war. 6 Am J2d Atomic E § 47.

nuclear incident. An occurrence within the United States causing bodily injury, sickness, disease, or death, or loss of or damage to property, or for loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or by-product material; provided, however, as to indemnification agreements in connection with a nuclear-powered ship, it shall mean any such occurrence outside the United States rather than within the United States. 42 USC § 2014(o).

nuclear reaction. The reaction consequent to the fission or fusion of atoms.

nuclear reactor. An apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction. 10 CFR § 50.2(k); 10 CFR Cum Supp § 115.3(h).

nuda. Nude; bare; mere; naked; unclothed.

Nuda pactio obligationem non parit. A bare or naked promise does not effect a binding obligation. See Broom's Legal Maxims 745.

nuda patientia. Mere sufferance.

nuda possessio. Mere or naked possession.

nuda propiedad. See **propiedad**.

Nuda ratio et nuda pactio non ligant aliquem debitorem. A bare or mere intention and a bare or mere promise do not bind any debtor.

nude. Naked; unclothed; bare; mere.

nude pact. Same as **nudum pactum**.

nudism. The criminal offense of indecent exposure of persons. 33 Am J1st Lewd etc § 7.

nudity. The unclothed state of a human being.

nudity in art. Representations of the unclothed human body in painting or sculpture. 33 Am J1st Lewd etc § 13.

nudum pactum. Literally, a bare agreement. A promise not supported by a consideration. Todd v Weber, 95 NY 181.

Nudum pactum est ubi nulla subest cause propter conventionem; sed ubi subest causa fit obligatio, et parit actionem. A nudum pactum is where there is no consideration on account of the promise; but where there is a consideration, an obligation is effected, and it supports an action. See Broom's Legal Maxims 745, 746.

Nudum pactum ex quo non oritur actio. A bare promise is one from which no action arises.

nuictander. Same as **nutander**.

nuire. (French.) To injure, hurt or harm. Thornton v Dow, 60 Wash 622, 111 P 899.

nuisance. Anything that works hurt, inconvenience, or damage to another. Prior v White, 132 Fla 1, 180 So 347, 116 ALR 1176; Hofstetter v Myers, 170 Kan 564, 228 P2d 522, 24 ALR2d 188. Any- thing done by one which annoys or disturbs another in the free use, possession, or enjoyment of his property, or which renders its ordinary use or occupation physically uncomfortable. Jones v Trawick (Fla) 75 So 2d 785, 50 ALR2d 1319. That which has the effect of prejudicially and unwarrantably affecting the enjoyment of the rights of another. Sullivan v Waterman, 20 RI 372, 39 A 243. Anything done by one that works or causes injury, damage, hurt, inconvenience, annoyance, or discomfort to another in the legitimate enjoyment of his reasonable rights of person or property. District of Columbia v Potten, 55 App DC 312, 5 F2d 374, 40 ALR 1461, cert den 269 US 562, 70 L Ed 412, 46 S Ct 21. Anything which (1) annoys or disturbs the free use of another's property, or which renders its ordinary use or physical occupation uncomfortable, or (2) interferes with the rights of a citizen, either in person, property, the enjoyment of his property, or his comfort, or (3) materially lessens the enjoyment of property or the physical comfort of persons in their homes. Martin v Williams, 141 W Va 595, 93 SE2d 835, 56 ALR2d 756.

What may constitute a nuisance in a particular case depends upon many things, such as the type of neighborhood, the nature of the thing or wrong complained of, its proximity to those alleging injury or damage, its frequency or continuity, and the nature and extent of the resulting injury, damage, or annoyance; each case must, of necessity, depend upon particular facts and circumstances. Lehmkuhl v Junction City, 179 Kan 389, 295 P2d 621, 56 ALR2d 1409.

See **liquor nuisance; private nuisance; public nuisance**.

nuisance at law. Same as **nuisance per se**.

nuisance in fact. A nuisance arising, not from the essential nature of the operation or condition involved, but from the location of the premises, the surroundings, or the manner in which the operation is managed or conducted. 39 Am J1st Nuis § 7.

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nuisance per accidens. See **per accidens nuisance**.

nuisance per se. An act, thing, omission, or use of the property which in and of itself is a nuisance, and hence is not permissible or excusable under any circumstances. State ex rel. Bradford v Stubblefield, 36 Wash 2d 664, 220 P2d 305, 17 ALR2d 1258. An act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings. Any act or omission or use of property or thing which is of itself hurtful to the health, tranquility, or morals, or which outrages the decency of the community. 39 Am J1st Nuis § 11.

nul. No; no one; none.

nul agard. No award.

nul assets ultra. No other assets.

nul disseisin. A plea of the general issue in an action under writ of entry. 41 Am J1st Pl § 141.

Nul fait agard. No award was made.

null. Nonexistent; void; of no legal effect.

nulla bona. A return of a writ of execution signifying that the officer made strict and diligent search but was unable to find any property of the defendant liable to seizure under the writ, whereof to make a levy. 30 Am J2d Exec § 561. A plea by a garnishee denying that he holds property of, or is indebted to, the defendant.

Nulla curia quae recordum non habet potest imponere finem, neque aliquem mandare carceri, quia ista spectant tantummodo ad curias de recordo. No court which has not a record can impose a fine, nor can it order anyone to be imprisoned, because those matters belong only to courts of record.

Nulla emptio sine pretio esse potest. There can be no sale without a price. Brown v Bellows, 21 Mass (4 Pick) 179, 189.

Nulla impossibilia aut in honesta sunt praesumenda; vera autem et honesta et possibilia. No impossible or dishonest things are to be presumed, but true, honest, and possible things are.

null and void. That which binds no one; that which is incapable of giving rise to any rights or obligations under any circumstances; that which is of no effect.

But there are cases where the expression means voidable merely, that is, capable of being avoided. Ewell v Daggs, 108 US 143, 149, 27 L Ed 682, 684, 2 S Ct 408.

Nulla pactio effici potest ne dolus praestetur. It cannot be provided in any contract that fraud shall not be answered for. See Broom's Legal Maxims.

Nulle regle sans faute. No rule or government is free from fault.

Nulle terre sans seigneur. There is no land without its lord.

Nulli enim res sua servit jure servitutis. For no one can reserve for his own property a servitude therein.

nullity. Something without legal effect, being null. A proceeding of no effect whatsoever because of a defect therein. Salter v Hilgen, 40 Wis 363, 365.

nullity suit. An action brought for the annulment of a marriage.

nullius filius. Nobody's child; the status of an illegitimate child under the English common law. 10 Am J2d Bast § 146.

Nullius hominis auctoritas spud nos valere debet, ut meliora non sequeremur si quis attulerit. No man's influence ought to prevail upon us not to follow better things, if any one presents them.

nullius in bonis. In the property of no one; not property.

In the language of Lord Coke, the burial of the cadaver is nullius in bonis. Griffith v Charlotte, Columbia & Augusta Railroad Co. 23 SC 25.

nullius juris. Of no legal effect; without support in law.

Nulli vendemus, nulli negabimus, aut differemus, rectum vel justitiam. We will sell to none, we will deny to none, we will delay to none, either right or justice. See 1 Bl Comm 141.

nullo est erratum. A plea to the assignment of errors in a coram nobis proceeding, equivalent to a demurrer, admitting the truth of the error assigned but insisting that in law it is not error. Chambers v State, 117 Fla 642, 158 So 153.

nullum arbitrium. No award.

Nullum crimen majus est inobedientia. No crime is greater than disobedience.

Nullum crimen, nulls poena, sine lege. Without a law, there is no crime and no punishment. State v Burbee, 65 Vt 1, 25 A 964.

Nullum exemplum est idem omnibus. No precedent or example is the same for all cases.

Nullum iniquum est praesumendum in jure. Nothing iniquitous is to be presumed in law.

Nullum matrimonium, ibi nulls dos. There is no dower where there is no marriage. If a marriage is dissolved, dower ceases. Wait v Wait (NY) 4 Barb 192, 202.

Nullum simile est idem. No similar thing is the same thing.

It must be the same case where you apply precedent. Lessee of Sweitzer v Meese (Pa) 6 Binn 500, 506.

Nullum simile quatuor pedibus currit. Nothing which is similar runs on four feet. Lessee or Sweitzer v Meese (Pa) 6 Binn 500.

Nullum tempus occurrit ecclesiae. No time runs against or bars the church. See 3 Bl Comm 103.

Nullum tempus occurrit regi. Time does not run against the king or sovereign. United States v Thompson, 98 US 486, 25 L Ed 194.

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Nullum tempus occurrit reipublicae. Time does not run against the state. Norrell v Augusta Railway & Electric Co. 116 Ga 313, 42 SE 466.

Nullus clericus nisi causidicus. No clerk, unless a pleader; no one is a clergyman who is not also a lawyer. See 1 Bl Comm 17.

Nullus commodum capere potest de injuria sua propria. No one can take advantage of his own wrong. Schmidt v Northern Life Asso. 112 Iowa 41, 83 NW 800.

Nullus debet agere de dolo, ubi alia actio subest. Where any other action exists, no one ought to sue in an action for deceit.

Nullus dicitur accessorius post feloniam sed ille qui novit principalem feloniam fecisse, et illum receptavit et comfortavit. No one is called an accessory after the felony but the one who knew that the principal had committed the felony and who received and comforted him.

Nullus dicitur felo principalis nisi actor, aut qui praesens est, abettans aut auxilians actorem ad feloniam faciendam. No one is called a principal felon except the actor, or a person who is present, abetting or aiding the actor in the commission of the felony.

Nullus idoneus testis in re sua intelligitur. No person is deemed to be a qualified witness in his own behalf.

Nullus jus alienum forisfacere potest. No person can forfeit the right of another.

Nullus liber homo aliquo modo destruatur nisi per legale judicium parium suorum, aut per legem terrae. No freeman shall in any manner be made to suffer corporal hurt save by the judgment of his peers or by the law of the land. See 1 BI Comm 133.

Nullus liber homo capiatur vel imprisonetur. No freeman may be taken or imprisoned. See 2 BI Comm 93.

Nullus liber homo imprisonetur. No free man may be imprisoned. See Clark's Case (Eng) 5 Coke's Rep 64a.

Nullus recedat a curia cancellaria sine remedio. No person departs from a court of chancery without a remedy.

Nullus simile est idem. A similar thing is not the same thing. Blake v Hamilton Dime Savings Bank, 79 Ohio 189, 87 NE 73.

Nullus videtur dolо facere, qui suo jure utitur. No one is deemed to work a fraud who exercises his own right. Fisher, Brown & Co. v Fielding, 67 Conn 91, 34 A 714.

Nul ne doit s'enrichir aux depens des autres. No person ought to enrich himself at the expense of others.

Nul prendra avantage de son tort. No one may take an advantage from his own wrongful act. Whitworth v Shreveport Belt Railway Co. 112 La 363, 36 S 414.

Nul sans damage avera error on attaint. No person shall have error or attaint, without damage.

nul tiel agard. No such award.

nul tiel corporation. No such corporation,—a name given to a plea denying the existence of the defendant corporation.

nul tiel record. A common-law plea of the general issue when defendant intends to dispute the existence of the record upon which the action is based, whether it is a judgment or other record. 41 Am J1st Pl § 141. A plea in a proceeding on a bail bond or recognizance where the surety disputes the existence of the bond. 8 Am J2d Bail § 152.

nul waste. No waste,—a name given to the general issue in an action for waste.

nul waste fait. No waste was committed.

numbers. See **numbers game.**

numbers game. A form of lottery. 34 Am J1st Lot § 7. A lottery, conducted under a system devised with more or less ingenuity to disguise the character of the enterprise. A lottery scheme wherein the proprietor sells for a specific sum, usually a few cents, certificates or tickets which entitle the purchaser to some article of trifling value, such as a lead pencil, and also permit him to select certain numbers, say 3-9-13, which, if all drawn by a blindfolded person from a revolving wheel in which several

numbers have been placed, entitle the purchaser of the ticket or certificate to a money prize much larger in amount than the sum which he has paid for the ticket or certificate. State ex rel. Kellogg v Kansas Mercantile Asso. 45 Kan 351, 25 P 984.

The "numbers game" in which each player places a bet, selects a number, and a winning number is determined by taking the first digit to the left of the decimal of the aggregate of prices paid for first, second, and third in each of the first three races at a certain race track, the holder of the winning number receiving a multiple of the amount of his play, is not a bet on a horse race, but a lottery, although the winning number is not determined by drawing. Forte v United States, 65 App DC 355, 83 F2d 612, 105 ALR 300.

Where one chooses a number and pays a certain sum, and the seller draws from a box an envelope containing a slip with numbers on it, and if the number chosen is on the slip, the buyer receives a multiple of the sum paid, greater or less according to agreement, and if not, he loses what he has paid, the transaction is a lottery. Commonwealth v Wright, 137 Mass 250.

A game in which the operator sells slips of paper containing three numbers with an agreement to pay a cash prize to holders of slips bearing numbers in sequence as they appear in a large number published daily in the press, such as the United States Treasury balance, is a lottery. Gilley v Commonwealth, 312 Ky 584, 229 SW2d 60, 19 ALR2d 1224.

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numbers pool. Same as **numbers game**.

numeral. An arithmetical figure of Arabic or Roman origin. 29 Am J2d Ev § 92.

numerata pecunia. Money which was enumerated or counted out, as distinguished from that which was weighed.

numerical index. An index of records of title according to the descriptions of land, the names of the parties to instruments, and the instruments themselves. 45 Am J1st Reeds § 98.

Numerus certus pro incerto ponitur. A certain number is placed or put for an uncertain one.

nunciatio. (Civil law.) A protest; a proclamation; a declaration.

nuncio. An ambassador of the Pope of Rome.

nuncius. An announcer; a messenger; a nuncio.

nunc pro tunc. Literally, now for then.

nunc pro tunc amendment. An amendment or correction given retroactive effect by court order.

Thus, a defective jurat of an affidavit may be amended nunc pro tunc by leave of court. Beach v Averett, 106 Ga 73, 31 SE 806.

nunc pro tunc decree. A decree in equity comparable to a nunc pro tunc judgment.

nunc pro tunc entry. See nunc pro tunc judgment; nunc pro tunc order.

nunc pro tunc filing. The filing of a claim in bankruptcy after the expiration of the statutory period for filing claims. 9 Am J2d Bankr § 450. The filing of a pleading to take effect as of an earlier time. Galatis v Galatis (CA5 Fla) 55 F2d 571.

nunc pro tunc intervention. Intervention pursuant to leave of court by order, as of a prior stage of the action. 39 Am J1st Parties § 73.

nunc pro tunc judgment. A method of amending the record of a judgment which is not in accord with that actually pronounced in the cause and rendered, so that the record will speak truthfully as of the date of entry, the amending judgment being literally "now for then." 30A Am J Rev ed Judgm § 591. A procedural device much employed in correcting defects in titles to real estate. Anno: 57 ALR 1462. A judgment in a criminal case entered pursuant to order as of the date of rendition. People v Lenon, 79 Cal 631, 21 P 967.

nunc pro tunc order. A method of amending a court record. 20 Am J2d Crts § 58. An order entered to take effect as of an earlier time. 37 Am J1st Motions § 30.

nuncupate. To make a nuncupative or verbal will.

nuncupative will. A will declared orally by the testator before witnesses but dependent for validity under some statutes upon being reduced to writing and subscribed by the witnesses after the speaking of the testamentary words. 57 Am J1st Wills §§ 653, 660.

Under the English Statute of Frauds and similar statutes in this country, except in the case of a soldier or seaman, the general rule is that a valid nuncupative will can be made only when the testator is in his last illness. 57 Am J1st Wills § 654. In some jurisdictions the validity of nuncupative wills is denied absolutely. 57 Am J1st Wills § 653.

nundinae. Market-places; fairs; a fair.

nunquam. Nowhere; on no occasion; never.

Nunquam crescit ex post facto praeteriti delicti aestimatio. The degree of a past offense never increases from a subsequent act.

Nunquam decurrit ad extraordinarium sed obi deficit ordinarium. Resort is never made to the extraordinary until the ordinary has failed. See Broom's Legal Maxims 42.

Nunquam fictio sine lege. A fiction never exists without law.

nunquam indebitatus. Never indebted,—the name given to a plea in an action of indebitatus assumpsit whereby the defendant denies that he was ever indebted to the plaintiff.

Nunquam nimis dicitur quod nunquam satis dicitur. That which is never said sufficiently is never said too much.

Nunquam praescribitur in falso. A prescription never exists in the case of falsifying or forgery.

Nunquam res humanae prospere succedunt obi negliguntur divinae. Human affairs never prosper where divine things are neglected.

nuntio. Same as **nuncio**.

nuntius. Same as **nuncius**.

Nuper de facto, et non de jure, reges Angliae. Recently kings of England in fact, and not of right. See 1 Bl Comm 204.

nuper obiitt. He recently died; an ancestral writ to establish an equal division of land, where, on the death of the ancestor, who had several heirs, one entered and held the others out of possession. See 3 Bl Comm 186.

nuptiae. Nuptials; marriage.

nuptiae secundae. A second or subsequent marriage after the first.

nuptial. Adjective: Relating or pertaining to a marriage. Noun: A wedding; the ceremony of a wedding.

Nuptias non concubitus, sed consensus facit. Not cohabitation, but consent, makes a marriage.

nurse. A person trained to take care of the sick, aged, wounded, or infirm and to assist a physician or surgeon; sometimes acting in the capacity of an independent contractor, at other times as an employee. Anno: 19 ALR 1189, s. 60 ALR 303.

Although the nurses on the staff of a hospital are the employees of the hospital for general purposes, they are not so for the purposes of surgery. When

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assisting at an operation, they cease for the time being to be the employees of the hospital, inasmuch as they take their orders during that period from the operating surgeon alone, not from the hospital authorities. Anno: 19 ALR 1190, 1191, s. 60 ALR 303.

See **registered nurse.**

Nurse Corps. The Army Nurse Corps, Nurse Corps of the United States Navy and United States Naval Reserve, or the Air Force Nurse Corps, such being branches of the United States Military Service.

nursery. A room or apartment in a dwelling house set aside as a place for the care of an infant and as his place for sleeping; a room or apartment in a dwelling house set aside especially for the children of the family as a playroom or as living quarters for them. A place where trees, shrubs, plants, and so forth, are propagated from seed or otherwise for transplanting, for use as stock for grafting, and for sale. Needham v Winslow Nurseries, Inc. 330 Mass 95, 111 NE2d 453, 40 ALR2d 1450.

nursery school. A school for boys and girls under the age of kindergarten pupils.

nursery stock. Small trees, shrubs, or plants raised for transplanting or kept for sale to persons desiring them for transplanting. 3 Am J2d Agri § 50.

nursing home. A place at which sick or disabled persons may be cared for, fed, and housed. Not a hospital within the meaning of a hospitalization policy. Employers Casualty Co. v Givens (Tex Civ App) 190 SW2d 155.

nursing services. The services of a trained or practical nurse. Necessaries within the rule that an insane person may be held liable for necessaries. 29 Am J Rev ed Ins Per § 74.

nurture. To educate; to rear.

nurture guardian. See **guardian by nurture.**

nurture period. The period between an animal's birth and the time when it has been weaned, or should have been weaned according to the course of nature or the usual custom of those who raise domestic animals. Anno: 144 ALR 333; 15 Am J2d Chat Mtg § 71.

nusance. An old form of the word **nuisance**.

nutander. Nocturnally; in the nighttime; by night.

nutauntre. Same as **nutander**.

note. Night.

nutricius. See **frater nutricius**.

nuyt. Night.

NW. Abbreviation of northwest.

nymphomania. A morbid, uncontrollable sexual desire, but not insanity. *Hill v Hill*, 27 NJ Eq 214. A species of insanity or mental disease manifested in a morbid activity of the sexual propensity, sometimes amounting to irresistible impulse to perform the sexual act. *Matchin v Matchin*, 6 Pa 332.