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s. An abbreviation for **scilicet**, although the more common abbreviation is "ss.-"

S 2. Abbreviation of south one half, used particularly in describing land according to the government survey, applying to a section or part of a section.

Sabbath. Sunday, --the one day of the week commonly set apart and observed in Christian countries as a day of public worship, relaxation, and refreshment. *State v Williams*, 26 NC (4 Ired L) 400, 402.

The word is not strictly synonymous with the word "Sunday;" Sabbath signifies Saturday, the seventh day of the week, the Jewish Sabbath; Sunday signifies the first day of the week, commonly called the Lord's Day. But by common usage, the terms are used indiscriminately to denote the Christian Sabbath, to wit, Sunday. See *State v Drake*, 64 NC 589, 591.

See **Sunday law**.

Sabbath breaking. Working, engaging in business, or the pursuit of other activity forbidden on the Sabbath. *State v Popp*, 45 Md 432, 437.

See **Sunday law**.

sabbatical leave. A year or more absence permitted a member of a college or university faculty for study, writing, or travel, usually with continuing pay or part pay. *State ex rel. West Virginia Board of Education v Sims*, 139 W Va 802, 81 SE2d 665.

Sabbatum. The Sabbath; Sunday.

sabotage. Wilful and malicious physical damage or injury to physical property. *Burns v United States*, 274 US 328, 71 L Ed 1077, 47 S Ct 650; *State v Moilen*, 140 Minn 112, 167 NW 345, 1 ALR 331. The malicious damage or injury to the property of an employer by an employee. *State v Moilen*, 140 Minn 112, 167 NW 345, 1 ALR 331, 332. Wilful, malicious, and intentional acts of force and violence or unlawful methods of terrorism which retard or slow up work by employees or others, or of any deliberate attempt to reduce profits of an employer as a means of accomplishing a change in industrial ownership or control or to effect any political end. 47 Am J1st Sedit etc § 3.

sac. The jurisdiction of an ancient court-baron or manor court; the privilege of holding such a court within a manor.

sacaburth. A person who entered upon a fresh pursuit of his goods after they had been stolen.

saccabor. Same as **sacaburth**.

saccularii. (Roman law.) Cutpurses.

Both the Romans and the Athenians punished such offenders more severely than common thieves. By analogy it is observed that pickpockets in England were denied benefit of clergy. See 4 Bl Comm 242.

sack. A bag. Plunder. A fund in ha purposes of corruption.

"This meaning was doubtless first given to the word by vile and corrupt persons engaged in distributing and receiving such fund, and, when first used in that sense, might well have been regarded as a slang expression, of the meaning of which courts would not then have taken judicial notice, but it is now so frequently used to convey this particular meaning, that it can hardly be considered, when employed for that purpose, as simply the language of slang and understood only by the vulgar." See *Edwards v San Jose Printing & Pub. Soc.* 99 Cal 431, 436, 34 P 128.

sacquier. An arrameur or officer of a port who directed the proper loading and stowage of cargoes aboard ships.

sacra. The right of a Roman to participate in sacred celebrations

sacramentales. Compurgators or persons who in a trial by wager of law swore to the innocence of the defendant.

sacramentum. (Roman law) An oath

sacramentum decisionis. (Civil law.) The oath of decision, the voluntary and decisive oath whereby the suit could be decided, if the other party, not being able to prove his charge, offered to refer the decision to the oath of his adversary. If the latter refused, the charge was taken as confessed by him. See 3 Bl Comm 342.

sacramentum fidelitatis. The oath of fealty.

Sacramentum habet in se tres comites, veritatem, justitiam et iudicium; veritus habenda est in jurato, justitia et iudicium in iudice. An oath has within itself three concomitants, truth, justice, and judgment; truth should be observed in the person making oath and justice and judgment in the judge.

Sacramentum si fatuum fuerit, licet falsum, tamen non committit perjurium. A foolish oath, although it be false, does not convict one of perjury.

sacrifice. Giving up something for the sake of saving something else. The destruction of property to save other property from impending peril. The Roanoke (DC Wis) 46 F 297, 298.

See **voluntary sacrifice.**

sacrilege. The larceny of sacred things; as, from a church. Desecration. Mistreatment of things held sacred by others.

Sacrilegii instar est rescripto principis obviari. It is sacrilege to oppose the ruler's rescript. 1 Bl Comm 74.

sacrilegium. (Civil law.) Same as **sacrilege.**

sacrilegus. A sacrilegious person; a thief who stole sacred things.

Sacrilegus omnium praedonum cupiditatem et scelera superat. A sacrilegious person exceeds the cupidity and wickedness of all robbers.

sacristan. A sexton or caretaker of a church.

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sadism. The obtaining of satisfaction, even sexual pleasure, from hurting another. A species of insanity or mental disease in which the sexual instinct of the patient is abnormal or perverted. State v Petty, 32 Nev 384, 391, 108 P 934.

saeculare. See **forum saeculare.**

Saepe constitutum est, res inter alios iudicatas aliis non praejudicare. It has often been decided that things adjudged as between others (than the parties before the court) do not prejudice.

Saepenumero ubi proprietas verborum attenditur, sensus veritatis amittitur. When the propriety of the language is given attention, the true meaning is very often lost.

Saepe viatorem nova non vetus orbita fallit. The new or fresh wheel mark or road often deceives the traveler, not the old one.

saepius requisitus. Often requested or demanded.

saevitia. Cruelty constituting a cause for a decree of separation in an ecclesiastical court. Ring v Ring, 118 Ga 183, 44 SE 861.

safe. Noun: A repository for valuables, often proof against burglary as well as fire. Adjective: Not in danger; out of harm's way.
See **adequately safe; reasonably safe.**

safe bill. Such a bill of exchange as would be honored and paid by the drawer on using proper diligence. Warder v Whitall, 1 NJL 84.

safe-conduct. Protection against harm while traveling. Guided in safety. Taken through a locality or region with safety to the person.

See **letters of safe-conduct.**

safe-deposit box. A metal box, coming in various convenient sizes, with lock, usually a double lock, for the keeping of valuable papers in one's home or office or, as is often the case, in the vault of a bank or safe-deposit company.

safe-deposit business. Maintaining a fire and burglar proof vault wherein the safe-deposit boxes of customers may be deposited, subject to access at convenient times, under leases calling for the payment of rent, normally an annual rent, such business being engaged in by banks and safe-deposit companies.

safe-deposit company. Any person, bank, or corporation offering, for remuneration, to furnish on its premises, for the safekeeping of the personal property of others, safe-deposit boxes, access to contents of which involve the use of a key obtained by the individual depositor.

safeguard. A safety device, especially an appliance to minimize or obviate danger from electrical appliances and equipment. 26 Am J2d Electr § 46.

safe investment rule. A rule applied in the computation of the present worth of a decedent's expected future earnings.

Under the so-called "safe investment rule," the jury, in determining the present value of the decedent's expected future earnings, should use that rate of interest which, in the jury's considered judgment, is reasonable, just, and right under the circumstances, taking into consideration the evidence presented, the jury's knowledge of the prevailing interest rates within the limits prescribed by law in the area, and what rate of interest could fairly be expected from safe investments as made by a person of ordinary prudence, but without particular financial experience or skill. 22 Am J2d Dth § 125.

See **prudent investment theory.**

safekeeping. A deposit of money or other personal property whereunder a duty rests upon the person who receives the money or other property to keep it and return it intact upon demand. In effect, a special deposit. Wright v Payne, 62 Ala 340.

safe landing. The responsibility of a carrier in reference to the act of a passenger in alighting from the carrier's conveyance. Harries v Atlantic Greyhound Corp. 243 NC 346, 90 SE2d 710, 58 ALR2d 939.

safe-place statutes or ordinances. Statutes or municipal ordinances enacted to provide for the safety of buildings and premises devoted to public amusements or entertainments by imposing strict duties of maintenance and repair upon owners and proprietors. Anno: 126 ALR 1251; 4 Am J2d Amuse § 58.

safe place to work. See **safe working place.**

safe-pledge. A surety for a person's appearance in court.

safe port of discharge. A familiar condition in charter parties. A port which a vessel can enter safely with her cargo or at least a port having an anchorage where the vessel can lie and discharge her cargo afloat. 48 Am J1st Ship § 324.

safe return. See **stipulation for safe return,**

safety appliance. A thing constituting a guard against danger or calculated to reduce the peril in a dangerous instrumentality. 38 Am J1st Negl § 90.

Safety Appliance Acts. Federal statutes designed to safeguard and protect railroad employees from injury or death from the hazards of their employment by requiring the railroads to equip their locomotives and cars with various safety devices, and imposing liability for death or injury predicated on failure to observe the requirements of such statute. 35 Am J1st M & S § 228. Statute regulating railroads in respect of the safety of their appliances and equipment for the protection of persons and properly transported. 44 Am J1st RR § 274.

safety device. A thing constituting a guard against danger or calculated to reduce the peril in a dangerous instrumentality. 38 Am J1st Negl § 90.

See **Safety Appliance Acts.**

safety of way. The condition of street or highway considered in reference to use without danger to person or property from defects, obstructions, nuisances, and other sources of peril. 25 Am J1st High §§ 342 et seq.

safety statutes. Statutes intended to protect employees against death or injury in the course of employment by requiring the observance of precautions on the part of employers in reference to the condition of the working place and the instrumentalities of the work. Statutes meant to protect all types of employees, not being limited to those engaged in hazardous employment. *Hillman v Northern Wasco County Peoples' Utility Dist.* 213 Or 264, 323 P2d 664.

See **Safety Appliance Acts.**

safety zone. A portion of street or highway set apart for the use of pedestrians, vehicular traffic being

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excluded, one of the most common of which is a zone established for pedestrians awaiting a bus or other public conveyance. 25 Am J1st High § 265. A zone for the safety and convenience of persons entering and leaving public conveyances, vehicular traffic being excluded. 7 Am J2d Auto § 197.

safe working place. The measure of the employer's duty in reference to the condition of the working place. A standard of care required of an employer in the terms of care exercised by prudent employers in similar circumstances, the degree depending upon the dangers attending the particular employment. 35 Am J1st M & S § 183.

The place in which an employee is directed to work is "safe," within the meaning of the law, when all the safeguards and precautions which ordinary experience, prudence, and foresight would suggest have been taken to prevent injury to the

employee while he is himself exercising reasonable care in the service which he undertakes to perform. *Peterson v Chicago, Rock Island & Pacific R. Co.* 149 Iowa 496, 128 NW 932.

sages de la ley. Persons learned in the law.

sag hole. A depression of small area in which surface waters collect. 56 Am J1st Wat § 72.

sagging wire. A wire strung from pole to pole, particularly a wire carrying an electric current, which has dropped so far from level as to constitute a danger to pedestrians or drivers of vehicles.

sagibaro. A shrewd person; a judge.

said. Aforesaid; before mentioned; above mentioned.

sail. Verb: To put to sea. To start a voyage. To leave port with the intent to proceed on a voyage. Noun: A piece of canvas spread out from the mast of a vessel or boat to catch the wind, thereby applying the force of the wind to the moving of the craft through the water.

See **under sail.**

sailboat. Small watercraft propelled by the power of the wind upon a sail. Not a vessel within the meaning of a regulation governing places of anchorage. 12 Am J2d Boats § 1.

sailing instructions. Directions in writing carried by each master of a vessel sailing with others in a fleet or convoy, whereby the course, the meaning of signals, and havens in case of storm or distress, etc. are communicated to all persons in command of vessels.

sailing rules. Navigation rules for small watercraft. 12 Am J2d Boats § 14.

See **rules of navigation.**

sailor. A seaman. One of the crew of a vessel. An enlisted man in the Navy, an ordinary seaman in the merchant service, a commissioned officer of the Navy or a ship's officer. 57 Am J1st Wills § 662 (For the purposes of a statute relaxing the requirements of a statute in reference to the formalities of a will.)

sailor-mongers. Persons employing or operating with other lawless persons who board vessels upon entering a port, and by the help of intoxicants and the use of other means, often savoring of violence, get the crews ashore and sell them to outgoing vessels at an enormous price. *United States v Sullivan* (CC Or) 43 F 602, 604.

sailor's will. See **seaman's will.**

Saint Vitus' Dance. An affliction of the nervous system. *Braun v Craven*, 175 Ill 401, 51 NE 657.

saiement. An oath.

saisina. Same as **seizin.**

salable. See **merchantable.**

salable value. See **market value.**

Saladine tenth. See **tenths**.

salarium. (Civil law.) Salary; pay; wages; an allowance for provisions.

salary. Compensation for personal service. *Papeay v Nolan*, 157 Tenn 222, 7 SW2d 815, 60 ALR 408; compensation for services in a position or office. 35 Am J1st M & S § 63. Compensation for personal services, as distinguished from profits realized in commercial dealings, returns from capital, or returns from the labor of others. 31 Am J2d Exemp § 39. Compensation paid periodically for services. State ex ref. *Murray v Riley* (Sup) 45 Del 192, 70 A2d 712, 14 ALR2d 630. A fixed annual or periodical payment for services, depending upon the time, and not upon the amount, of services rendered. 43 Am J1st Pub Of § 357.

In many situations, the words "wages" and "salary" are synonymous. In other instances, a distinction is recognized, "salary" connoting compensation for services more important than those for which "wages" are paid and also compensation on a basis more fixed and permanent than that of wages. 35 Am J1st M & S § 63.

salary-loan broker. One who engages in the business of making small loans on the security of wage assignments. 40 Am J1st Pawns § 9.

sale. A transfer of the property in a chattel for a consideration. *Edward v Ioor*, 205 Mich 617, 172 NW 620, 15 ALR 256. A transfer of personal property at a fixed money price payable in cash or in goods. *Hartwig v Rushing*, 93 Or 6, 182 P 177. A transfer of the title to personal property for money. 46 Am J1st Sales § 2. For tax purposes, a bona fide transfer of property for an amount of money or a money equivalent which is fixed or determinable. *Gregory v Helvering*, 293 US 465, 79 L Ed 596, 56 S Ct 266, 97 ALR 1355. A transfer of the general or absolute, as distinguished from a special, property in a thing, for a price in money. *Union Secur. v Merchants' Trust & Sav. Co.* 205 Ind 127, 185 NE 150, 95 ALR 1189. But sometimes inclusive, as in the case of a conditional "sale," of a transaction which does not effect an absolute transfer of title. *Carter v Slavick Jewelry Co.* (CA9 Cal) 26 F2d 571, 58 ALR 1043. A term inclusive of the sale of securities. *People v Gillett*, 243 Ill App 41. A term also applied very frequently to the transaction under a land contract as well as to a conveyance by deed for a consideration. *Fox v Adrian Realty Co.* 327 Mich 89, 41 NW2d 486, 15 ALR2d 1037.

See **bulk sale; conditional sale; futures**.

sale against the box. A short sale of stock by one who owns shares of the same stock.

If the stock declines, the seller can cover at a profit; if it increases in value, he can avoid loss by delivering the shares which he owns. *Du Pont v Commissioner* (CA3) 110 F2d 641, cert den 311 US 657, 85 L Ed 421, 61 S Ct 11.

See **short sale**.

sale and exchange. See **power of sale and exchange**.

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sale as is. A sale without express or implied warranty. 46 Am J1st Sales § 319. A sales term in the used car business. 8 Am J2d Auto § 654.

Where an article is sold "as is," the use of the expression implies that the buyer takes a chance in making the purchase. It implies that he is taking delivery of a thing in some way defective and upon the express condition that he trust to his own examination of it. In effect, the seller says "You look the article over, and, if you buy it, you do so at your risk." It imports a purchase and acceptance without guaranties. *Ferguson v Koch*, 204 Cal App 342, 261 P 489, 491.

sale at auction. See **auction**.

sale at retail. A sale to a customer for his own use, or the use of his family, rather than for resale by him in the course of business. Anno: 139 ALR 376. A transfer of title to tangible personal property, made in the ordinary course of the transferer's business, for consumption or use by the purchaser or for any other purpose except that of resale by him in the ordinary course of business. *Boyer-Cambell Co. v Fry*, 271 Mich 282, 260 NW 165, 98 ALR 827.

A legislative definition of the phrase appearing in a sales tax statute will prevail over definitions which may be found in the dictionary, and render immaterial the question whether a transaction on which a tax is levied meets the technical requisites of a sale at common law or the meaning of the same phrase as used in other enactments. Anno: 139 ALR 373, 374.

sale at wholesale. See **wholesale**.

sale by agent. A term of art; an actual sale made and completed on behalf of a principal; producing for the principal a purchaser able, ready, and willing to buy on the terms of the principal. *Walker v Russell*, 240 Mass 336, 134 NE 388.

sale by executor or administrator. A sale by a personal representative of assets of the decedent's estate. 31 Am J2d Ex & Ad §§ 341 et seq.

sale by inch of candle. See **sale by the candle**.

sale by sample. A sale of goods under an executory contract in which the goods are unidentified other than by express or implied representation that they correspond to an exhibited sample. Anno: 12 ALR2d 528; 46 Am J1st Sales § 214.

See **warranty in sale by sample**.

sale by the acre. The sale of a specific area of land. 55 Am J1st V & P § 127.

A contract of sale by the acre is one wherein a specified quantity is material. Under such a contract the purchaser does not take the risk of any deficiency and the vendor does not take the risk of any excess. Anno: 153 ALR 7 et seq.

sale by the candle. Also called "sale by inch of candle,"-a form of auction sale consisting of offering the property for sale for such a length of time as would suffice for the burning of an inch of candle. *Anderson v Wisconsin G. R. Co.* 107 Minn 296, 120 NW 39.

sale by the tract. A sale of land designated as a particular tract, without particular reference to the number of acres contained therein. 55 Am J1st V & P § 127.

A sale by the tract or in gross is one wherein the boundaries are specified, but quantity is not specified, or if specified, the existence of the exact quantity specified is not material; each party takes the risk of the actual quantity varying to some extent from what he expects it to be. *Newman v Kay*, 57 W Va 98, 49 SE 926.

sale en masse. Sale of several things in one lot for one sum. A judicial sale of real estate where the property is sold without division and sale by parcels. 30A Am J Rev ed Jud S § 85. An execution sale of several distinct parcels of real estate, or several articles of personal property, together for a single gross sum. *Anniston Pipeworks v Williams*, 106 Ala 324, 18 So 111.

sale f.o.b. See **free on board**.

sale f.o.b. cars. See **free on board cars**.

sale for cash. See **cash sale**.

sale for debt. An execution sale. A sale by an administrator or executor to pay a debt or debts of the decedent. *Bashore v Whisler* (Pa) 3 Watts 490, 494.

sale for taxes. A sale of property to enforce the payment of taxes assessed thereon. 51 Am J1st Tax § 1022. A sale of a delinquent taxpayer's property after seizure in the collection of federal taxes, interest, and penalties. Internal Revenue Code §§ 6321, 6331.

sale in bulk. See **bulk sale.**

sale in gross. See **sale by the tract; sale en masse.**

sale in inverse order of alienation. The doctrine of inverse order of alienation. 35 Am J1st Marsh A § 32.

See **inverse order of alienation.**

sale in ordinary course of business. See **in the ordinary course of business.**

sale in parcels. An execution sale of personal property consisting of various articles in which each article is offered and sold separately. 30 Am J2d Exec § 343. An execution or judicial sale of real property consisting of separate tracts, or susceptible of division into separate tracts, in which the tracts are offered and sold separately. 30 Am J2d Exec § 344; 30A Am J Rev ed Jud S § 85.

sale in partition. See **partition sale.**

sale note. A note given by the purchaser at an auction sale to cover the price of his purchase.

See **bought and sold notes.**

sale of bond at par. See **par.**

sale of goods to arrive. See **sale on arrival.**

sale of intoxicant. See **sale of liquor.**

sale of land. An actual transfer of title to the land from grantor to grantee by an appropriate instrument of conveyance executed for a consideration in money or the equivalent of money. *Keogh v Peck*, 316 Ill 318, 147 NE 266, 38 ALR 1151. An effective transfer of the equitable title to real estate from vendor to vendee under a contract of sale. 55 Am J1st V & P § 356.

See **land contract.**

sale of liquor. The transfer of title to intoxicating liquor from one person to another by agreement and for a consideration, or, according to some authority a transfer by what is known as barter or exchange, even a transfer by way of a loan. 30 Am J Rev ed Intox L § 210.

The weight of authority is that where several persons contribute to a fund and with it one of their number purchases liquor, which is divided among them in proportion to their several contributions,

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it is not a sale by the one to the others, but merely the division of the fruits of a joint and lawful enterprise. 30 Am J Rev ed Intox L § 218.

sale of real estate. See **sale of land.**

sale of security. Any agreement whereby a person transfers, or agrees to transfer, either the ownership of or an interest in a security. A broad term, as used in Securities Acts, inclusive of an exchange of securities, a subscription for corporate stock, an extension of the maturity of investment certificates, and a contract by a corporation to dispose of shares rendered available upon an increase in the number of shares by proper action taken. 47 Am J1st Secur A § 19.

sale on approval. A sale of personal property, sometimes called a sale on trial, which is subject to a condition precedent, namely the approval of the buyer, the latter having the right to reject the property as not suitable to his needs upon timely notice given to the seller following a trial period. *Smith v Clews*, 114 NY 190, 21 NE 160. A bailment with an option to buy. *Osborne v Francis*, 38 W Va 312, 18 SE 591.

sale on arrival. A sale of goods to be shipped to the buyer from a distance which is conditional upon the arrival of the goods at the point where the buyer is to receive them.

A sale of goods "to arrive" or "on arrival," per or ex a certain ship, has been construed to be a sale subject to a double condition precedent, namely, that the ship arrives in port and that when she arrives, the goods are on board, and if either of these conditions fails, the contract becomes nugatory. 46 Am J1st Sales § 201.

sale on condition. An executory contract of sale, otherwise mutual and binding, the duty to perform which is subject to the happening of an event, upon which, if it does happen, the duty to perform becomes binding on both parties. 46 Am J1st Sales § 38.

See **conditional sale; sale on arrival.**

sale on contingency. Same as **sale on condition.**

sale on execution. See **execution sale.**

sale on option. See **option; sale on approval.**

sale on trial. See **sale on approval.**

sale or exchange. A transfer of property from one man to another in consideration of some price or recompense in value. 2 Bl Comm 446.

A mortgagor's conveyance of the realty to the mortgagee in consideration of a cash payment and cancellation of the mortgage and bond constitutes a sale within the terms of the mortgagor's contract with a broker giving the latter an exclusive right to sell and a right to compensation upon a "sale or exchange" of the property before a specified date. *Whiteman v Fidei*, 176 Pa Super 142, 106 A2d 644, 46 ALR2d 1113.

sale or exchange of capital asset. A method of realizing gain or loss for tax purposes, involving a complete, bona fide, and permanent transfer of an ownership interest, in other words, a transfer of economic reality. *Gregory v Helvering*, 293 US 465, 79 L Ed 596, 55 S Ct 266, 97 ALR 1355.

sale or return. A sale defeasible upon condition subsequent, title to the goods passing to the purchaser, subject to being divested out of him and revested in the seller by a return of the goods according to the terms of the contract. Anno: 52 ALR 596; 46 Am J1st Sales §480.

sale per aversionem. As defined by the Civil Code of Louisiana, -a sale of land "from one fixed boundary to another fixed boundary, when the object is designated by the adjoining tenements."

A sale by measurement is not such a sale. *Minor v Daspit*, 128 La 33, 38, 54 S 413. To constitute such a sale, there must be certain limits, or a distinct object described, as a field enclosed, or an island, because it is presumed that the parties

have their attention fixed rather on the boundaries than the enumeration of the quantity. *State v Buck*, 46 La Ann 656, 670, 15 So 531.

Sales Act. A comprehensive statute covering sales of personal property. One of the Uniform Laws. 46 Am J1st Sales § 3. A uniform act specifically repealed by the Commercial Code. 15 Am J2d Com C § 6.

sales agent. A salesman. A soliciting agent of an insurance company.

salesbook. The record of sales made at an auction. 7 Am J2d Auct § 41. A day book in a retail business, kept under a system of bookkeeping employed very little in modern times.

sales contract. See **contract to sell; executed contract of sale; executory contract of sale; land contract.**

salesclerk. A salesman in a department store.

sales guaranteed. An expression used by merchants to mean that if the goods purchased by the buyer are not sold, or if they prove to be hard to sell, the buyer may return them to the seller and take credit for their value. *Newell v Nicholson*, 17 Mont 389, 43 P 180.

salesman. One engaged in making sales, usually for another but sometimes in his own business. One trained in the work or art of salesmanship and having the ability to sell. A person or company employed, appointed, or authorized by dealer to sell, offer for sale or delivery, or solicit subscriptions to or orders for, or dispose of inquiries about, or deal in any manner in, securities within the state, whether by direct act or through subagents. *Commonwealth v Boyle*, 108 Pa Super 598, 165 A 521. A laborer for the purposes of a statutory exemption from execution. *Hamberger v Marcus*, 157 Pa 133, 27 A 681.

See **broker; traveling salesman.**

sales manager. The head of the sales department of a business. A managing agent of a foreign corporation within the meaning of a statute concerning the service of process upon foreign corporations. 36 Am J2d For Corp § 560. A laborer for the purposes of an exemption from execution. *Shriver v Carlin & F. Co.* 155 Md 51, 141 A 434, 58 ALR 767.

Sales of Reversions Act. An English statute passed in 1867, providing in effect that no purchase, made bona fide and without fraud or unfair dealing, of any reversionary interest in real or personal estate, should be set aside merely on the ground of undervalue. *McAdams v Bailey*, 169 Ind 518, 82 NE 1057.

sales tax. A tax upon a sale or the receipts of a sale. 47 Am J1st Sales T § 1. A tax levied on, with respect to, or measured by, sales of tangible personal property. *Polar Ice Cream & Creamery Co. v Andrews*, 375 US 361, 11 L Ed 2d 389, 84 S Ct 378. A tax imposed on the sale of certain articles by the Internal Revenue Code. Internal Revenue Code §§ 4001, 4011, 4021, 4031, 4041. Sometimes a tax

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upon the sale of a luxury, such as jewelry, liquor, and so forth, while in other instances a tax upon the sale of commodities, even necessities. A tax variously construed, under the terms of the particular statute establishing it, as imposed upon the retailer, the consumer, the sale or transaction itself, or the business of selling goods. 47 Am J1st Sales T § 2. An excise rather than a property tax. 47 Am J1st Sales T § 2.

sale to arrive. Same as **sale on arrival.**

sale under power. A method of foreclosing a mortgage on real estate without resort to the court. 37 Am J1st Mtg § 647. A method of enforcing a chattel mortgage without the necessity of resort to judicial proceedings. 15 Am J2d Chat Mtg §§ 127 et seq. Broadly, any sale under a power of sale.

See **power of sale**.

sale with option. See **option; sale on approval**.

sale with strings. A sale with a right of repurchase or of obtaining a lease back.

Salic Law. The earliest barbarian code, in use by a Teutonic tribe in the fifth century. The law of the Franks.

saline springs. Salt springs.

Salique law. Same as **Salic law**.

saliva test. A test for intoxication, sometimes applied to the driver of an automobile, the purpose being to determine by chemical analysis the alcoholic content of his blood. 7 Am J2d Auto § 259.

salon. A large room for the reception of guests. In modern usage, a place for the reception of customers, especially in establishments for the sale of wearing apparel for women. A beauty parlor. A place for the exhibition and sale of works of art.

saloon. A room or place where intoxicating liquors are sold and drunk, commonly without meals. 30 Am J Rev ed Intox L § 20.

See **barroom**.

saloonkeeper. The proprietor of a saloon.

saloon type body. The usual sedan or closed body of an automobile. *Smith v Kliesrath*, 28 Cust & Pat App 1293, 120 F2d 1015.

salting samples. The act of the vendor of mining property in mixing gold or other minerals in with samples of ore taken from the property, for exhibition to a prospective purchaser. *Loaiza v Superior Court*, 85 Cal 11, 24 P 707.

salt meadows. Meadows over which the ordinary tides do not flow, but which are overflowed by unusually high tides. *Church v Meeker*, 34 Conn 421, 423.

salt silver. An ancient tax or fee paid by tenants to the lord of the manor for the privilege of receiving salt from his larder.

salt springs. Springs of water heavy in content of salt.

See **salt well**.

salt well. A well characterized by the salty content of the water taken therefrom. *Williamson v Jones*, 43 W Va 562, 27 SE 411. A well from which salt brine is procured and used for the purpose of making salt. *Clifton v Montague*, 40 W Va 207, 21 SE 858.

salus. Health; safety; welfare.

Salus populi est suprema lex. The welfare of the people is the highest law.

Salus populi suprema lex est. The welfare of the people is the highest law; a maxim constituting the foundation of all civil government and an age-old ruling principle of jurisprudence. *Ruona v Billings*, 136 Mont 554, 323 P2d 29.

On this maxim rests the principle that one may not so use his property as unreasonably to injure others. *Cook County v Chicago*, 311 Ill 234, 142 NE 512, 31 ALR 442, 445.

Salus populi suprema lex esto. Let the welfare of the people be the highest law.

Salus reipublicae suprema lex. The welfare of the state is the highest law.

The idea that in effect the morality of corporations is opportunism pure and simple was anciently embodied in the maxim, and its doctrine should be very sparingly resorted to by a state which has a written constitution or by a business corporation created by a written charter. *Cook v American Tubing & Webbing Co.* 28 RI 41, 65 A 641.

Salus ubi multa consilia. There is safety in many counsels.

Salus ubi multa consilarii. There is safety in many counselors.

salutem. Greeting.

salute. An act of greeting. A gesture of respect.

salute to flag. See **flag salute.**

salvage. A reward for services successfully rendered in saving property from maritime danger by one under no obligation or duty to render the services. *Three States Lumber Co. v Blanks (CA6 Tenn)* 133 F 479. The compensation allowed to persons by whose voluntary assistance a ship at sea, or her cargo, or both, have been saved in whole or in part from impending sea peril, or in recovering such property from actual peril or loss, as in cases of shipwreck, derelict or recapture. 47 Am J1st Salv § 2. Property of some value obtained from the remains of properties subjected to catastrophe, such as fire or flood. *Springfield Fire & Marine Ins. Co. v Hays*, 57 Okla 266, 156 P 673. A comparatively small amount recovered from an investment which has gone dead. Anno: 103 ALR 1286, s. 116 ALR 1356, 1357.

salvage corps. An organization, normally maintained by private enterprise, the purpose of which is to have members in attendance at a fire for the particular purpose of saving property and preserving it from the elements until the owner or owners can assume care of it.

salvage lien. The lien of the salvors upon ship or cargo saved from a peril of the sea such securing the payment of salvage to them. 47 Am J1st Salv § 29. A maritime lien of the highest rank.

salvage loss. A marine insurance term signifying a total loss of the property insured diminished by salvage, which takes place in relation to goods when there is either an absolute or a constructive total loss of the subject insured but some remains of the property have been recovered by the insured. *Devitt v Providence Washington Ins. Co.* 61 App Div 390, 401, 70 NYS 654.

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salvage measured by wages. A reward in nature of salvage made to members of the crew of the vessel saved. 47 Am J1st Salv § 20.

salvage services. Services entitling to salvage; useful services of any kind rendered to vessel or cargo exposed to imminent peril from dangers of the sea. 47 Am J1st Salv § 9.

salva guardia. See **de salva guardia.**

salvian interdict. (Roman law.) A foreclosure of a pledge of the goods of a tenant given by him to secure the payment of his rent.

Salvation Army. An international organization engaged in religious worship of the Christian faith and maintaining centers for social rehabilitation, engaged particularly in offering shelters for transients who are destitute or of very limited means, the care of unmarried mothers, treatment for alcoholism, etc. Anno: 17 ALR 1054, s. 168 ALR 1259.

Salvation Army meeting. A religious meeting when the purpose is religious worship. 24 Am J2d Disturb M § 2.

salvo. Saving; excepting.

salvo conducto. See **de salvo conducto.**

salvo jure cujuslibet. Saving the rights of each one; that is, without prejudice.

salvo me et haeredibus meis. Excepting me and my heirs.

salvo pudore. Decency being observed. See 4 Bl Comm 213.

salvor. One who renders or performs salvage service. 47 Am J1st Salv § 2.
See **cosalvor**; **salvage.**

salvor's lien. Same as salvage lien.

salvos plegius. A safe-pledge.

same. Adjective: Alike in all respects. Identical. Pronoun: The above-mentioned; the before-mentioned.

The word does not always mean "identical," "not different," or "not other." It frequently means of the kind or, species, though not the specific thing. It is often used as a substitute for that which was used before, and is employed in the sense of a pronoun. In this sense it is very frequently used in pleadings and in legal documents. To deliver policies and receive premiums upon the same is equivalent to, to deliver policies and receive premiums upon them, or, substituting the noun for its representative pronoun, to deliver policies and receive premiums on policies. *Crapo v Brown*, 40 Iowa 487, 493.

same case. See **s. c.**

same contract or transaction. For the purpose of joinder of causes of action, one transaction having a substantial unity with another or other transactions. 1 Am J2d Actions § 107. A preponderating doctrine in the law of larceny, that the larceny of articles belonging to different owners, if committed at the same time and place, constitutes but one offense; and that while the state can, if it chooses, include all these offenses in one indictment, yet if it chooses to indict the thief for stealing only one of the articles belonging to one of the owners, it cannot subsequently be allowed to indict for the larceny of any other of the articles so taken, for it was taken in the same transaction and that would be double jeopardy for the same offense. *Dean v State*, 9 Ga App 571, 71 SE 932. For the purposes of a counterclaim, the contract or transaction which is the foundation of plaintiff's suit. *Benton County State Bank v Nichols*, 153 Or 73, 54 P2d 1166.

In actions *ex contractu*, a counterclaim, to be one arising out of the same contract or transaction, must be a cause of action in favor of a defendant against a plaintiff which might have arisen out of the original transaction, in view of the parties, and

which, at the time the contract was made, they could have intended might, in some event, give one a claim against the other for compliance or noncompliance with its provisions. *Krausse v Greenfield*, 61 Or 502, 123 P 392.

Such a "transaction" is not limited to the facts set forth in the complaint, but includes the entire series of acts and mutual conduct of the parties in the business or proceeding between them which formed the basis of the transaction. 20 Am J2d Countcl § 67.

same invention. The invention for which a patent will be reissued, being the identical invention covered by the original patent. 40 Am J1st Pat § 114.

same offense. An identical or similar offense, for the purposes of enhancement of punishment under habitual criminal statutes. 25 Am J1st Habit Cr § 15.

See **identity of offenses; prior jeopardy; same contract or transaction.**

same parties. See **mutuality of parties and demands.**

same quality, height and fitness. A term of comparison in a building contract, applicable to the entire structure of the standard. 13 Am J2d Bldg Contr § 10.

same transaction. See **same contract or transaction.**

sample. An article or a portion taken from a large number or bulk as a fair representative of the whole quantity; a specimen. See *Brantley v Thomas*, 22 Tex 270.

See **sale by sample.**

sanae mentis. Of sane mind; of sound mind.

sanatorium. A place where an invalid may rest and receive medical care in pleasant and healthful surroundings, particularly a place for a person afflicted with tuberculosis. An institution for the recuperation and treatment of persons suffering from physical or mental disorders. *United Cerebral Palsy Asso. v Zoning Board*, 382 Pa 67, 114 A2d 331, 52 ALR2d 1093.

sanctio. (Civil law.) Same as **sanction.**

Sanctio justa, jubens honesta et prohibens contraria. (Civil law.) A just sanction, commanding that which is honorable and forbidding the contrary.

sanction. Approval. Authority. Something giving force and authority. A coercive measure. That part of a law which signifies the evil or penalty which will be incurred by the wrongdoer for his breach of it. 50 Am J1st Stat § 151. As used in the Federal Administrative Procedure Act: -the whole or part of any agency (1) prohibition, requirement, limitation or other condition affecting the freedom of any person; (2) withholding of relief; (3) the imposition of any form of penalty or fine; (4) destruction, taking, seizure or withholding of property; (5) assessment of damages, reimbursement, restitution, compensation, cost, charges or fees; (6) the requirement, revocation, or suspension of a license; or (7)

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the taking of other compulsory or restrictive action. 5 USC § 1001(f).

sanction of oath. A belief that God will punish falsehood, whether in this world by remorse of conscience or other method or by a means reserved for the future state of being in the next world. 39 Am J1st Oath § 5.

sanctuary. A sacred place where in older times a person who had committed a crime was immune from arrest. A church or temple. That part of a church in which the main altar is located.

sand. A species of stone. *Wright v Carrollton Gravel & Sand Co.* (Ky) 242 SW2d 751, 26 ALR2d 1449. Disintegrated rock.
See **gravel**.

sanding. The duty of a carrier to sprinkle sand upon snowy or icy spots on steps or platforms on its premises. 14 Am J2d Car § 1054. The process of putting sand on icy or snowy street or highway. Smoothing a board by rubbing it with sandpaper. Removing old paint or varnish.

sand pit. A digging upon land where sand in salable quantities is obtainable. *Williamson v Jones*, 43 W Va 562, 27 SE 411.

Sandwich Islands. The name by which the islands which comprise the present state of Hawaii were formerly known.

sane. Possessed of sanity.
See **sanity**.

sane memory. Good memory; sound understanding.
See **sound mind and memory**.

sane or insane clause. A clause in a life insurance policy extending the exception of suicide to intentional self-destruction by an insane as well as by a sane person, regardless of the moral or criminal quality of the act. 29A Am J Rev ed Ins § 1147.

sang. (French.) Blood; consanguinity.

sanguine. See **demi-sanguine**.

sanguinem emere. To buy one's blood—a redemption or purchase by a villein of his blood or tenure that he might become a freeman.

Sanguinis conjunctio benevolentia devincit homines et caritate. The tie of kinship overcomes men through benevolence and affection.

sanguis. Blood; blood-relationship; consanguinity.

sanipractor. One who practices a system of healing without drugs. Anno: 86 ALR 631, 632.

sanis. A form of punishment for crime which at one time prevailed among the Greeks, and which consisted in fastening the culprit to a piece of wood.

sanitarium. Same as **sanatorium**.

sanitary. The absence of source of infection or disease. In a state of sanitation. In the interest of sanitation. For the preservation of health by removing sources of infection and disease. *Re Theresa Drainage Dist.* 90 Wis 301, 305, 63 NW 288.

sanitary district. An improvement or assessment district established with reference particularly to improvements, such as sewers and sewage disposal plants, in the interest of sanitation and health. 48 Am J1st Spec A § 35. A municipal corporation organized to secure, preserve, and promote the public health. *People ex rel. Longenecker v Nelson*, 133 Ill 565, 579.

sanitary regulations. Building regulations imposed in the interest of health. 13 Am J2d Bldgs §§ 29, 30. Regulations intended to prevent the spread of communicable diseases. 25 Am J1st Hlth § 25.

sanitation. The practical application of science in protecting health by eliminating sources of contagion and disease-producing conditions; hygienic measures in sewage disposal and drainage projects. Oakland County Drain Comrs. v Royal Oak, 325 Mich 298, 38 NW2d 413, 11 ALR2d 1122.

sanity. Soundness of mind; mental competency.

A person is sane when he is of sound mind; when he is possessed of a mind which is not that of an imbecile and which is healthy. See Robinson v Adams, 62 Me 369.

Sanity is not an ingredient of crime. It is a condition precedent of all intelligent action, as well benevolent as nefarious. It is a quality of the actor, not an element of the act. It is a pre-existing fact which may be taken for granted as implied by law and general experience. We do not infer sanity from the criminal act as we do malice and premeditation. Sanity is a premise, not a conclusion. The sanity of a human being is an assumed fact, never depending upon evidence until it is disputed. State v Quigley, 26 RI 263, 58 A 905.

See **insanity; presumption of sanity.**

sapling. A tree too small to be useful for any good purpose when cut; a part of the undergrowth in a forest. 34 Am J1st Logs § 2.

sans. Without.

sans ceo que. Without this, that.

sans impeachment de wast. Without impeachment of waste, -a clause in a deed or lease signifying that the grantee or lessee shall not be liable for waste. See 2 Bl Comm 283.

sans jour. Without day.

sans nombre. Without number.

sans recours. Without recourse.

sanus. Sane; whole; sound; in a healthful state, whether mind or body. Den v Vancleve, 5 NJL 695, 775.

sapiens. (Latin.) Wise; sensible.

Sapiens incipit a fine, et quod primum est intentione, ultimum est in executione. A wise man begins at the end, and that which is first in intention is last in execution.

Sapiens omnia agit cum consilio. A wise man does everything with deliberation.

sapientes, fideles, et animosi. Wise, faithful, and brave. See 1 Bl Comm 408.

sapientia. (Latin.) Wisdom; prudence.

Sapientia legis nummario pretio non est aestimanda. The wisdom of the law is not to be estimated or computed in money value.

Sapientis judicis est cogitare tantum sibi esse permissum, quantum commissum et creditum.

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A wise judge should only permit himself to think in so far as a matter is committed and intrusted to him.

sart. Wooded land which has been converted into arable land.

sasine. Same as **seizin**.

satisdare. (Civil law.) To give "satisdatio."

See **satisdatio**.

satisdatio. (Civil law.) A security given by the defendant in an action for the payment of any judgment that may be rendered against him. See 3 Bl Comm 291.

satisfaction. The discharge of an obligation; the payment of a debt. A fulfillment of needs. A performance of the terms of an accord. *Harrison v Henderson*, 67 Kan 194, 72 P 875.

See **accord and satisfaction; discharge; release**.

satisfaction by legacy. The discharge of an inter vivos obligation by bequest made by the will of the obligor in favor of the obligee, as where a legacy satisfies a covenant contained in a marriage settlement. Anno: 26 ALR2d 15.

satisfaction contract. A contract which provides in terms that performance by the one party must be satisfactory to the other. *United States Heat & Power Corp. v Lachman*, 235 Mich 75, 209 NW 187.

See **satisfaction with performance**.

satisfaction in fact. See **technical release**.

satisfaction of judgment. Compliance with or fulfillment of the mandate, such ordinarily being the payment of the money due thereunder. 30A Am J Rev ed Judgm § 990. The release of a judgment as "paid" or "satisfied."

As used in a clause of a liability insurance policy requiring action to be brought against the insurer within a certain time after the judgment against the insured has been paid and satisfied, the word "satisfied" is synonymous with the word "paid." It means satisfaction in fact, the payment of the judgment in full, and not the entry of that satisfaction upon the record. 29A Am J Rev ed Ins § 1798.

satisfaction of mortgage. The payment of a mortgage. 36 Am J1st Mtg § 406.

satisfaction of the court. Convincing the court. Removing doubt from the mind of the court.

Where a fact is to be established to the satisfaction of the court, the words "to the satisfaction of the court" do not mean simply the sufficiency of the proof, but go to the quieting of the mind of the judge, -go to the freedom to act according to his judgment on the question, and this is particularly the case where he is to judge as to his own bias and prejudice. *State v Chapman*, 1 SD 414, 47 NW 411.

satisfaction of the jury. Convincing the jury; removing doubt from the minds of the jurors.

To prove a thing to the satisfaction of a jury means that the jury must be satisfied that the thing existed. To satisfy the mind, according to the common notion of mankind, is to free it from doubt, to set it at rest. This is the primary meaning of the word, according to all the lexicographers, when used in this connection. To accomplish this result -to "satisfy" a body of men of the truth of a disputed fact-requires much more than a preponderance of the evidence. Clear and convincing evidence must be adduced in its favor. *Kelch v State*, 55 Ohio St 146, 45 NE 6.

satisfaction piece. A warrant signed by the party in whose favor a judgment has been rendered and acknowledged as required by law, or, in England, signed by an attorney for that purpose authorized, directing the officer of the court having charge of the record to enter a satisfaction of the judgment on the roll. *Lownds v Remsen* (NY) 7 Wend 35, 40.

satisfaction with performance. A determination to be made by objective criteria; the question whether the owner, as a reasonable man, should have been satisfied with the work. Anno: 44 ALR2d 1120, § 5[b]; 13 Am J2d Bldg Contr § 30. A determination entirely subjective, the owner or contracting party entitled to performance having the right to pass on the performance and determine whether or not it is satisfactory, without the necessity of disclosing the reasons for the determination made by him, provided he acts in good faith. *United States Heat & Power Corp. v Lachman*, 235 Mich 75, 77, 209 NW 187.

The word "satisfactory" is employed in two different senses when applied in contracts to make or supply something to the "satisfaction" of a person, or a thing "satisfactory" to him. If the article to be made or supplied is one which involves personal taste or feeling, such as a dress or a portrait, the person to be satisfied is the sole judge, and the article must conform to his peculiar taste or feelings; but if it does not involve such taste or feelings, as a keg of nails, or a piece of machinery, the article need only be "reasonably" satisfactory. *Pennington v Howland*, 21 RI 65, 41 A 891.

satisfactory deal. A transaction by a broker which his principal, as a reasonable man, should accept; a transaction negotiated by a broker which his principal can not refuse so as to preclude liability to the broker for the commission to which the latter is otherwise entitled under the terms of the contract between them. *Mullally v Greenwood*, 127 Mo 138, 29 SW 1001.

satisfactory evidence. Same as **satisfactory proof**.

satisfactory goods. See **satisfaction with performance**.

satisfactory indorser. An indorser for accommodation who is satisfactory to the payee, subject to the qualification that the payee is not to reject capriciously. *Cutter v Cutter*, 48 NY Super Ct (16 Jones & S) 470, 475.

satisfactory note. A promissory note given by a person of undoubted solvency or supported by surety or indorser of undoubted solvency. 46 Am J1st Sales § 179.

satisfactory performance. See **satisfaction with performance**.

satisfactory proof. Convincing evidence. Sufficient evidence. Evidence such as to satisfy an unprejudiced mind of the truth. 30 Am J2d Ev § 1080.

To be satisfied of the truth of anything implies the absence of a reasonable doubt, but it does not imply the absence of belief that there is a possibility that the thing is not true. The jury may believe there is a possibility of the defendant's innocence, and yet properly convict him; for although it may be possible he was innocent, yet they may be entirely satisfied that he was guilty. *People v Phipps*, 39 Cal 326, 334.

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In cases involving statutes requiring "satisfactory" proof of genuineness of handwriting offered for comparison, it has generally been held that the proof required is such as would require the court to find as a fact that the writing was genuine. Anno: 41 ALR2d 578.

See **satisfaction of jury**.

satisfactory proof of loss. A proof of loss made to an insurer, sufficient to make out a prima facie case and to enable the insurer to form an intelligent estimate of its rights and liabilities. 29A Am J Rev ed Ins § 1403.

satisfactory title. A title to real estate which is satisfactory to the other party to a contract, subject only to the limitation that he must act in good faith in considering the state of the title. Anno: 47 ALR2d 457; 52 Am J1st Exch P § 23. A title to real estate which is satisfactory by objective standards, being a good or marketable title; such a title that no reasonable objection can be made thereto. Anno: 47 ALR2d 457.

satisfied. Paid. Philadelphia Pickling Co. v Maryland Casualty Co. 89 NJL 330, 98 A 433. Approving of performance, having received satisfaction.

See **satisfaction; satisfactory proof**.

satisfied encumbrance. A mortgage or other lien standing of record as security for a debt which has since been paid.

satisfy. To make satisfaction.

See **satisfaction; satisfied**.

Satius est petere fontes quam rivulos. It is more satisfactory to seek the spring or source than the little rivulets. '

Satius est petere fontes quam sectari rivulos. It is more satisfactory to seek the spring than to follow the little rivulets.

The maxim expresses the advice of Lord Coke that in deciding cases the ancient sources of the law should be consulted. Dyson v Rhode Island Co. 25 RI 600, 57 A 7 71.

Saturday. The seventh and last day of the week by the calendar. The Sabbath under the religion of the Jews. 50 Am J1st Sun & H § 10. A juridical day. 50 Am J1st Sun & H § 77.

sault. An assault.

sausage. A food composed of meat, salt, and spices. Armour v State Dairy & Food Com. 159 Mich 1, 123 NW 580.

sauvement. Safely.

savanna. A natural open meadow in tropical or semitropical region having abundant rainfall.

A savanna is not absolutely constant in its state and extent, but from the constitution of the soil, or its humidity, or other natural quality, not well understood, there takes place in savannas but little change, and they may be considered nearly permanent, unless disturbed by cultivation. See Stapleford v Brinson, 24 NC (2 Ired L) 311, 312.

save harmless. See **to indemnify and save harmless; to save harmless**.

save the statute. To prevent the bar of the statute of limitations against a plaintiff's cause of action by suing before the statutory period has elapsed.

savin. A juniper tree, also called juniperus sabina. A drug obtained from the juniper tree.

saving clause. A clause in a statute stating that the valid provisions will be enforced in spite of any judicial determination that certain parts of the action are unconstitutional. 16 Am J2d Const L § 187. A restriction in a repealing act, saving rights, pending

proceedings, penalties, etc., from the annihilation which would result from unrestricted repeal. State ex rel. Crow v St. Louis, 174 Mo 125, 73 SW 623.

saving life doctrine. See **rescue doctrine.**

saving property doctrine. The proposition that a defendant who by his negligence has endangered the property of another is liable for personal injuries incurred by the owner, or person in charge of such property, in an effort to save it, if the effort is impelled by the necessity of the occasion, and is reasonably prudent under the circumstances. 38 Am J1st Negl § 81. The rule that it is not contributory negligence per se for one to expose himself to some danger in an endeavor to save his own property, the property of his employer, or the property of a third person. 38 Am J1st Negl § 230.

savings account. An account of a savings bank customer. An account between a savings bank and a depositor, which differs from an ordinary account in a commercial bank in two respects: (1) the amount on deposit bears interest, subject to conditions as to the time of deposit, and (2) the right of withdrawal may be subject to an advance notice of a prescribed number of days, weeks, or months. An account in a commercial bank under conditions respecting interest and withdrawals which distinguish it from the ordinary account in such a bank.

savings and loan association. An association chartered by the Federal Home Loan Bank Board to encourage thrift and promote the ownership of homes by accepting deposits to bear interest and making loans for home financing. 13 Am J2d B & L Assoc § 10.

See **building and loan association.**

Savings and Loan Insurance Corporation. A corporation created by Congress to insure the accounts of all federal savings and loan associations and the accounts of building and loan, savings and loan, homestead associations, and co-operative banks organized and operating under state law or the laws of a district, territory, or possession in which they are chartered. 13 Am J2d B & L Assoc § 12.

savings bank. A term of dual meaning. A banking institution in the hands of disinterested persons, the profits of which inure wholly to the benefit of the depositors in dividends or in a reserve surplus for their greater security. A bank in which the depositor becomes a creditor of the bank for the amount of the deposit and receives such interest on the deposit as the trustees or directors of the bank may agree to pay, and in which the profits belong to the corporation and its stockholders. In a sense known throughout the country, a bank which accepts and pays interest on deposits of savings, subject to whatever conditions may be prescribed as to the time such savings remain on deposit. 10 Am J2d Banks § 4.

savings bank check. An anomaly of words, being nothing more than a slip denoting a withdrawal of funds from a savings account.

savings bond. A United States bond payable to a designated person, sometimes with an alternative payee, payable in progressively larger amounts the longer it is held.

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savings deposit. A deposit in a savings bank or with a building and loan association.

See **Christmas club deposit.**

saving to suitors clause. A qualification in the federal statute which vests original jurisdiction of civil cases in admiralty in the federal district courts, exclusive of the courts of the state, saving to suitors in all cases all other remedies to which they are otherwise entitled. 28 USC § 1333.

For jurisdictional effect of the clause, see 2 Am J2d Adm §§ 105 et seq.

saw logs. Logs which can be sawed into lumber. Anno: 72 ALR2d 738.

saw-log timber. Same as **saw timber.**

saw-mill timber. Same as **saw timber.**

saw timber. Trees of such size, shape, and kind as to be susceptible of conversion to lumber. Anno: 72 ALR2d 740. Trees of all varieties from which suitable articles can be made, or which can be used to advantage in any class of manufacture or construction. *Teachout v Clough*, 143 Mo App 474, 127 SW 672.

say, about. A term used by a seller when he makes no representation as to quantity of subject matter. Anno: 1 ALR 1395.

s. c. An abbreviation of the words "same case," often employed in briefs and law writings where the same case is cited several times for different points. An abbreviation of the Latin word "scilicet," but not employed as frequently as "ss."

scab. A worker who is opposed to a labor union, who refuses to strike, or who takes the place of a striking employee, becoming a strike breaker. Paltry fellow, especially from the standpoint of union labor. *State v Christie*, 97 Vt 461, 123 A 849, 34 ALR 577, 579.

scab shop. A place of employment for nonunion men only.

scabies. A contagious disease of the skin caused by burrowing mites; sometimes transmitted between animals in close confinement in railroad car or truck. *Nichols v Atchison, T. & S. F. Ry. Co.* 180 Kan 101, 299 P2d 52.

scaccario. See **de scaccario.**

scaccarium. The court of exchequer. See 3 Bl Comm 44.

scaffold. A framework of wood or metal upon which to stand and place materials in working upon a building; sometimes known as staging. Anno: 59 ALR 1090. Inclusive of staging both inside and outside of a building upon which work is performed. 58 Am J1st Workm Comp § 98. The raised platform from which a person is dropped in executing the death penalty by hanging.

scaffolding. Same as **scaffold.**

scale. To cut down; to proportion.

See **scales.**

scaleboard. A board or shingle upon which a weigher at a scales marks the weights of single loads weighed by him, the entry for his scalebook being made from the tally of the figures on the scaleboard. *Crane Lumber Co. v Otter Creek Lumber Co.* 79 Mich 307, 44 NW 788.

scalebook. A book of entries made by a weigher, showing the weights of loads weighed by him. *Crane Lumber Co. v Otter Creek Lumber Co.* 79 Mich 307, 44 NW 788.

scale-down agreement. An agreement by the creditors of a single debtor under which they undertake to accept reduced sums in full satisfaction of their claims. Anno: 147 ALR 744.

scales. An instrumentality for weighing.

scale ticket. A ticket made out by the weigher at a scales and handed to the driver of a load weighed, showing the weight of the load. *Chicago & A. R. Co. v American Strawboard Co.* 190 Ill 268, 60 NE 518.

scale tolerance. The normal variation between different scales in the weighing of carloads of coal.

Under the rules of the Interstate Commerce Commission, scale tolerance beyond one hundred pounds is not to be permitted. *Smith v Louisville & Nashville R. Co.* 202 Iowa 292, 295, 209 NW 465, 466.

scaling timber. Measuring or estimating the number of board feet of lumber a log or tree will produce. *Kennedy v South Shore Lumber Co.* 102 Wis 284, 288.

scalp. A short deal or transaction, that is, one which is intended to be closed out promptly with a profit. *McCormick v Nichols*, 19 Ill App 334. The skin on the top and back of the head.

scalper. See **scalping**; **ticket scalping**.

scalping. Removing the scalp or a part of the scalp of a person. The making of a short-term profit by an adviser in respect of investments through taking advantage of the market reaction to advice given by him. *Securities & Exchange Com. v Capital Gains Research Bureau, Inc.* 375 US 180, 11 L Ed 2d 237, 84 S Ct 275. Taking advantage of a customer in charging him an excessive price. Any form of business practice in seeking an unmerited profit.

See **ticket scalping**.

scandal. An act or condition which leads to disgrace as shocking to the community or offensive to the feelings of the public. Defamation.

See **scandalous matter**.

scandalous matter. Allegations in a pleading which are both impertinent and reproachful. *Woods v Morrell (NY)* 1 Johns Ch 103, 106. Impertinent allegations which are damaging to the reputation of the person aspersed. 27 Am J2d Equity § 187.

The rule is sometimes stated that no person is obliged to reanswer matter of "scandal" in responding to a bill of discovery, but the term "scandal" has a limited and technical meaning in this connection, referring only to scandal and infamy arising from crime. *Skinner v Judson*, 8 Conn 528.

scandalum magnatum. The slander of great men.

The term was used in early English law to designate words spoken in derogation of a peer, a judge, or other great officer of the realm. Such slander was considered a more heinous offense than the slander of a common person. The doctrine of scandalum magnatum, however, has long been obsolete in England, being finally abolished by statute. It is said to be unknown in the United States. 33 Am J1st L & S § 3.

scandalmonger. One who maliciously repeats and disseminates scandal. 33 Am J1st L & S § 45.

scandal sheet. A newspaper mainly devoted to the detailing of violations of moral obligations through crime, acts of lawless violence, or conduct induced

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by lust, especially one in which the stories and articles are illustrated, or purport to be illustrated, by pictures. 33 Am J1st Lewd etc § 12.

scan. mag. An abbreviation of **scandalum magnatum**.

scapegoat. One who bears the blame, sometimes taking the punishment, for another person's offense.

scapellare. To haggle.

scar. A mark, sometimes a disfigurement, resulting from a cutting of the skin. *Houston Lighting & Power Co. v Reed* (Tex Civ App) 365 SW2d 26, error ref n r e.

scarlet fever. A communicable disease, particularly of children, characterized by a rash and fever, usually accompanied by sore throat. 25 Am J1st Hlth § 25.

scattering votes. Votes cast at an election for persons whose names do not appear on the printed ballot but which have been written in by the voters. *State ex rel. Ragan v Junkin*, 85 Neb 1, 122 NW 473.

scavage. A toll exacted of foreign merchants by town officers for showing or exposing goods for sale in the town. See 1 Bl Comm 316.

scavenger. A person employed to remove filthy matter, particularly one who cleans out privy vaults. *State ex rel. Moriarity v McMahan*. 69 Minn 265, 72 NW 79.

scenario. A complete plot for a moving picture, reduced to writing, with the addition of essential details for acting the play. Anno: 23 ALR2d 275, § 7.

scene of accident. Place of accident.

scenic railway. An amusement device; a roller coaster; a miniature railway for children.

See **roller coaster**.

scenic road. A pleasure drive.

schedule. Noun: A small scroll; a writing additional or appendant; an inventory. A writing to be sworn to and filed by a bankrupt, showing the amount and kind of his property, the location thereof and its money value, in detail; a list of all his creditors, showing their residences or places of business, if known, or if unknown, that fact to be stated, the amount due to or claimed by each of them, the consideration thereof, the security held by them, if any, and what claims, if any, are contingent, unliquidated, or disputed; and a claim for such exemptions as he may be entitled to—all in triplicate, one copy for the clerk, one for the referee, and one for the trustee. 9 Am J2d Bankr § 367. A list of assets and liabilities to be filed by an insolvent in insolvency proceedings. 29 Am J Rev ed Insolv § 15. Verb: To prepare a list or inventory.

See **time schedule; time table**.

schedule in bankruptcy. See **schedule**.

schedule injuries. Injuries compensable under a workmen's compensation statute for specific sums, regardless of the fact that the workman has not been incapacitated to perform his accustomed duties and has suffered no loss of earnings or earning capacity. 58 Am J1st Workm Comp § 287.

schedule of exempt property. The list of property selected by a debtor as that which he claims exempt from execution. 31 Am J2d Exemp § 146. A part of the schedule to be filed by a bankrupt. 9 Am J2d Bankr § 367.

scheme. A plan or artifice; a plot. A combination of thoughts, theories, or the like, connected and adjusted by design; a systematic plan; a system. *Weiss v United States* (CA5 La) 120 F2d 472. An outline of an article, for example, 9 Am J2d Bankr page 1.

scheme to defraud. A plan designed or concocted for perpetrating a fraud.

As the term is used in the Federal statutes making criminal the use of the mails for the purpose of executing a scheme to defraud, if the scheme or artifice in its necessary consequence is one which is calculated to injure another, to deprive him of his property wrongfully, then it is to defraud within the meaning of the statute. See *Horman v United States* (CA6 Ohio) 116 F 350.

schireman. An earl.

An earl is a title of nobility so ancient that its origin cannot be clearly traced. Among the Saxons they were called ealdormen (elder men) with the same meaning as the word senior or senator among the Romans. And the Saxons called them "schiremen" because they had each of them the civil government of a several division or shire. See 1 Bl Comm 398.

schism. A division of the membership of a society respecting the conduct of the organization or the principles which it espouses. A breach of unity among people of the same religious faith. 45 Am J1st Reli Soc § 65. A separation of a religious society into parts, without change of faith or ulterior relations. *McKinney v Griggs*, 68 Ky (5 Bush) 401.

schismaticus inveteratus. Persistently opposed to orthodox religious beliefs. See 1 Bl Comm 389.

schizophrenia. A mental disorder, not necessarily an impairment of intelligence, characterized by hallucinations, indifference, and delusions of omnipotence and persecution. Not necessarily insanity constituting a defense in an action for divorce. 24 Am J2d Div & S § 409.

scholarship. Demonstrated ability to acquire knowledge. A gift of money or other aid, as by a grant of free tuition, to help a particular student maintain the financial burden of attending college or university, sometimes under conditions, such as services of the donee in teaching or as a laboratory assistant or participation by the donee in athletics. 15 Am J2d Colleges § 18.

scholarship record. A public record of the progress and grades of pupils in public schools. *Valentine v Independent School Dist.* 187 Iowa 555, 174 NW 334 6 ALR 1525. The rating of a student according to his grades or other attainments. 15 Am J2d Colleges § 27.

scholastic rating. See **scholarship record.**

school. A place for systematic instruction in any branch or branches of knowledge; a place where instruction is imparted. 47 Am J1st Sch § 2. A place where instruction is imparted, irrespective of the number of persons being taught. *People v Levisen*, 404 Ill 574, 90 NE2d 213, 14 ALR2d 1364; *Livingston v Davis*, 243 Iowa 21, 50 NW2d 592, 27 ALR 2d 1237. A term sometimes limited to a public or common school. 47 Am J1st Sch § 2. In usual sense, exclusive of university, college, business college, or other institution of higher education. 47 Am J1st Sch § 2.

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The word as used in a constitutional provision exempting from taxation such property as may be used for school purposes means a place where systematic instruction in useful branches is given by methods common to schools and institutions of learning, as distinguished from schools conducted for teaching, dancing, writing, deportment, and other things, which are not schools in the ordinary sense. *People ex rel. McCullough v Deutsche E. L. J. Gemeinde*, 249 Ill 132, 94 NE 162.

The word "school" as used in a statute requiring denial of a liquor license for a location within five hundred feet of a school is not subject to a more restricted definition than the definition of the word in building restriction cases. *Boys' Club of Detroit v Pajula*, 342 Mich 150, 69 SW2d 348, 49 ALR2d 1097.

See **parochial school; private school; public school.**

school board. An administrative body, composed of a number of directors, commissioners, or trustees, charged with the duty of administering public schools within a city, town, or district. 47 Am J1st Sch § 29. A special commission within a constitutional provision prohibiting the legislature from delegating the power to tax to any special commission. *Wilson v Philadelphia School Dist.* 328 Pa 225, 195 A 90, 113 ALR 1401.

school building. See **schoolhouse.**

school census. A census taken of pupils in the schools as of a particular date, showing ages and attainments according to grade. 14 Am J2d Census § 11.

school children. In common usage, children receiving elementary instruction in public, parochial, and private schools.

In common acceptance, the term refers to young people in attendance upon educational institutions of a subordinate character, places of primary instruction, and, ordinarily, and without something to indicate a wider meaning to be intended, it will not be taken to include pupils in attendance upon such higher institutions of learning as colleges or universities, or institutions for the teaching of trades, professions or business. *State ex rel. Seattle v Seattle Electric Co.* 71 Wash 213, 128 P 220.

school directors. See **school board.**

school district. A local administrative authority with fixed territorial limits created by the legislature, and subordinate to its will, as an agent of the state for the sole purpose of administering the state's system of public education. 47 Am J1st Sch § 12. A subordinate agency, subdivision, or instrumentality of the state, performing the duties of the state in the conduct and maintenance of the public schools. *State ex rel. McKittrick v Whittle*, 333 Mo 705, 63 SW2d 100 88 ALR 1099. A public corporation. 18 Am J2d Corp § 8.

See **centralized district; consolidation of school districts; independent school district.**

school fund. A fund created for the promotion and maintenance of a common or public school system provided for by the constitution and statutes of the various states. 47 Am J1st Sch § 83.

school house. A building which houses a school. Any building which is appropriated for a use prescribed or permitted by the law to public schools. *Alexander v Phillips*, 31 Ariz 503, 254 P 1056, 52 ALR 244. The entire school plant, including main building, playground, gymnasium, stadium, and other structures for competitive athletic games and sports, and other buildings appropriated to uses prescribed or permitted by law to a public school. *Alexander v Phillips*, 31 Ariz 503, 254 P 1056, 52 ALR 244.

school lands. Lands set apart from the public domain, the proceeds from the sale of which can be used only for educational purposes. 47 Am J1st Sch §§ 62 et seq. Lands reserved for the purpose of being applied to schools in the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming and in the states and territories carved out of them, by section 1946 of the Revised Statutes of the United States, providing that sections 16 and 36 in each township should be thus reserved. *Pike v State Board of Land Comrs.* 19 Idaho 268, 277, 113 P 447.

school nurse. A nurse employed by the school authorities for rendition of professional services in a public school. 47 Am J1st Sch § 190.

school of law. A law college.

school of medicine. A medical college. A system of medical treatment, such as homeopathy or allopathy. 41 Am J1st Phys & S § 85.

school placement laws. The laws governing the assignment of students to public schools, particularly in reference to the elimination of race segregation. 15 Am J2d Civ R § 42.

school preference law. A statute authorizing boards of education to provide separate schools for white and Negro children whose parents voluntarily elect that their children shall attend a school with members of their own race. 15 Am J2d Civ R § 45.

school purpose. See **educational purpose.**

school taxes. Taxes imposed and levied particularly for the purposes of the establishment, construction, and maintenance of schools. 47 Am J1st Sch §§ 76 et seq.

school prayer. A prayer given in school, usually as a part of morning exercises. 47 Am J1st Sch § 210.

schoolteacher. See **teacher.**

schoolteacher's pension. See **teacher's pension.**

school township. A territorial subdivision for school purposes. A township comprising one school district, being divided into subdistricts for the administration of the several schools of the district. *W. H. Dreves, Inc. v Oslo School Township*, 217 Ind 388, 28 NE2d 252, 128 ALR 1405.

See **centralization of schools.**

school trustees. See **school board.**

sciagraph. Same as **skiagraph.**

Sciant praesentes et futuri. Know all men present and in future.

science. Knowledge derived from study, observation, and experimentation and arranged for use in system and form. Study in a branch of knowledge conducted abstractly but also with observation and experimentation.

sciendum est. It should be known.

sciens et prudens. Knowing and intending.

scienter. Knowledge, particularly knowledge which charges with guilt or liability. Knowledge of an owner of an animal concerning the viciousness of the beast. 4 Am J2d Am § 86. Knowledge on the part of a person making a repre-

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sentation, at the time when the representation is made, that it is false. 37 Am J2d Fraud § 197. An element of liability for interference with the performance of a contract, consisting in knowledge of the existence of the contract. 30 Am J Rev ed Interf § 42. An element of the crime of incest, consisting in knowledge that the person with whom one engages in sexual intercourse is within the prohibited degree of relationship. 27 Am J1st Incest § 7.

scienti. To him who has knowledge.

"Scienti is not equivalent to 'volenti.' It cannot be said that where a man is lawfully engaged in work, and is in danger of dismissal if he leaves his work, that he wilfully incurs any risk which he may encounter in the course of such work." *Thrusell v Handyside* (Eng) LR 20 QB Div 359.

Scientia scilorum est mixta ignorantia. The knowledge of superficial persons is scrambled ignorance.

Scientia utrinque par pares contrahentes facit. Knowledge on both sides makes the contracting parties equal. See *Broom's Legal Maxims* 772.

Scientia utriusque par pares contrahentes facit. Knowledge on both sides makes the contracting parties equal.

Scienti et volenti non fit injuria. No injury is done to a person who understands and consents.

scientific books. Publications of the writings of experts in medicine, surgery, mechanics, chemistry, nuclear science, and other fields of specialized learning.

See **books of exact science.**

scientific institution. An institution devoted to teaching or research in science or a particular field of science.

As to what is a scientific institution within the meaning of an exemption from property tax, see *Anno: 34 ALR2d 1221*.

scientific journal. A publication devoted to the special interests of some branch of science. 39 *Am J1st Newsp* § 9.

scientific organization. An organization exempt from federal income tax because of the scientific nature of its activities, its refraining from prohibited transactions, and also from an unreasonable accumulation of income. Internal Revenue Code § 503.

scienti non fit injuria. No injury is done to a person who has knowledge of the facts.

"In discussing the question as to whether the plaintiff assumed the risk by continuing at work (with knowledge of his danger), the judges called attention to the fact that the maxim upon which the assumption of risks was based was not *Scienti non fit injuria*, but *Volenti non fit injuria*. A majority of them therefore concluded that the mere fact that the servant remained at work after discovering the danger to which he was exposed did not authorize the court to say, as a matter of law, that he consented to assume the risk. They held that whether he did so or not was a question for the jury. The justness of his decision has been recognized by some of the American courts." *Choctaw, Oklahoma & Gulf R Co. v Jones*, 77 *Ark* 367, 375, 92 *SW* 244.

sci. fa. An abbreviation of **scire facias**.

scil. An abbreviation of **scilicet**.

scilicet. Town; that is to say, abbreviated "ss.," "s.," or "scil." An allegation of fact in a pleading in form dispensing with proof of the precise circumstance alleged. *Lindekugel v Spokane, P. & S. R. Co.* 149 *Or* 634, 42 *P2d* 907, 99 *ALR* 721.

scintilla juris. A particle of right; a spark of interest.

scintilla of evidence. The least particle of evidence, a mere trifle of evidence. *Offutt v Columbian Exposition*, 175 *Ill* 472, 476, 51 *NE* 651.

scintilla rule. The rule, now very generally rejected or abandoned in most jurisdictions, that a verdict is never directed for a party if there is any evidence, slight though it may be, in favor of the other party. 53 Am J1st Trial § 356. The rule that if there is any evidence presenting a conflict, at least evidence of some substance, not mere vague, uncertain or irrelevant matter, the case must be submitted to the jury. *Nugent v Nugent*, 281 Ky 263, 135 SW2d 877.

Scire debes cum quo contrahis. You ought to know the person with whom you contract.

Scire et scire debere aequiparantur in jure. To know and to be bound or to be deemed to know are equivalent in the law.

scire facias. A writ of statutory origin (13 Edward I, chapter 45) used both as an original writ to obtain a judgment where none has before existed and as a writ of execution or continuation of a judgment previously entered. 47 Am J1st Sc F §§ 3, 4. A writ requiring the defendant to appear and show cause why the plaintiff should not be permitted to take some step wherein he has the advantage of a public record. 47 Am J1st Sc F § 2. A writ founded on a matter of record, such as a recognizance or judgment, on which it lies to obtain execution or for other purpose, such as to hear errors. 47 Am J1st Sc F § 2. A writ for the revival of a judgment. 47 Am J1st Sc F § 17. A proceeding for the enforcement of an execution against a garnishee, generally limited to cases where the garnishee defaults, and where there has been no specific property garnished, so that it is necessary to discover and identify the property of the defendant in the possession of the garnishee. *Parker, Peeples & Knox v El Saieh*, 107 Conn 545, 141 A 884, 59 ALR 1424. A remedy for the enforcement of a bail bond or recognizance on forfeiture. 8 Am J2d Bail § 145.

The term "scire facias" applies not only to a certain writ, but also to the action or proceeding instituted under the writ. 47 Am J1st Sc F § 1.

scire facias ad audiendum errores. A common-law writ available to a plaintiff in error who had assigned errors, to compel the executors or administrators of the deceased defendant in error to join in error. *United States Mut. Acci. Asso. v Welter*, 32 Fla 210, 215.

scire facias quare executionem non. A common-law writ available to the executors or administrators of a defendant in error, to compel the plaintiff in error, who had not assigned errors, to do so. *United States Mut. Acci. Asso. v Welter*, 32 Fla 210, 215.

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Scire facias quare restitutionem habere non debet. Make it known why he ought not to have restitution.-A process in the nature of an order to show cause which issued as a preliminary to the issuance of a writ of restitution where a satisfied judgment was reversed on appeal and the record failed to show the amount paid or lost by the appellant. *Bank of United States v Bank of Washington (US)* 6 Pet 8, 8 L Ed 299.

scire facias sur mortgage. A writ for the enforcement of a mortgage upon default of the mortgagor.

Scire feci. I have made known; I have given notice; I have notified.

scire fieri inquiry. A writ which lay to inquire into the disposition of his goods made by the defendant.

sciregemot. (Saxon.) A court held within a shire or county; a county court.

Scire leges non hoc est verba earum tenere, sed vim et potestatem. (Civil law.) To know the laws is not to grasp their words alone, but their force and power as well.

Scire proprie est rem ratione et per causam cognoscere. To know properly is to know the thing by reason and through the cause of it.

scite. A site; a situation; a location. (Latin.) Informed; knowing.

sclerosis. See **arteriosclerosis.**

scold. To rebuke or find fault with another. A person, especially a woman, who scolds.

See **common scold; cuckingstool; scolding.**

scolding. Mere clamor, railing, personal reproof.

Argument dignifies the orator and instructs and convinces the auditor. Scolding relieves somewhat the hysteria of the scolder, but only amuses or irritates the hearer. Argument is the professional weapon of the lawyer; scolding is that of the communis rixatrix (common scold). *Rahles v J. Thompson & Sons Mfg. Co.* 137 Wis 506, 118 NW 350.

See **scold.**

scope of authority. The authority of an agent, conferred by his principal, for the performance of acts which are either proper for the accomplishment of the end or object for which the agent was appointed or are such acts as are usual in matters of the kind. *First Nat. Bank v Nelson*, 38 Ga 391.

As applied to the duty of a public officer, the "scope" of his duty is his design, aim, or purpose; his intention; and it is not to be confused with "scope of authority," which includes only such acts as he may perform with lawful authority. *Linblom v Ramsey*, 75 Ill 246, 251.

scope of employment. Line of duty; course of the service; pursuit or transaction of the employer's business; furtherance of the employer's interest. 35 Am J1st M & S § 554. Doing for the employer that which one has been directed to do by the employer. *Rolfe v Hewitt*, 227 NY 486, 125 NE 804, 14 ALR 125. A relative term comprehending consideration of the surrounding circumstances, including the character of the employment, the nature of the wrongful deed, and the time and place of its commission. *Horton v Jones*, 208 Miss 257, 44 So 2d 397, 15 ALR2d 824.

Any act which can fairly and reasonably be deemed to be an ordinary and natural incident, or a natural, direct, and logical result of the employment is within the meaning of the phrase "scope of employment." *Rolfe v Hewitt*, 227 NY 486, 125 NE 804, 14 ALR 125. Acts are said to be within the scope of the employee's employment when they are incidental to his regular duties as such an employee and are of some benefit to the employer and not personal to the employee. *Myers v Industrial Acci. Com.* 191 Cal 673, 218 P 11.

See **in the course of the employment.**

scope of review. The matters proper for consideration by an appellate court upon review of a lower court decision. 5 Am J2d A & E § 702. The matters proper for consideration when properly presented upon the review by the court of a determination of an administrative agency. 2 Am J2d Admin L § 610. A variable in appellate practice, ranging from a trial de novo on appeal to a determination of no more than the question whether there was substantial error producing a miscarriage of justice in the trial court, the scope of review in the particular case depending upon constitutional and statutory provisions. 5 Am J2d A & E § 702.

See **trial de novo.**

scot. See **bi-scot; church-scot; scot and lot; soulscot.**

scot and lot. A customary contribution laid upon all subjects according to their ability; duties the payment of which was a prerequisite to the right to vote. In the frame or Code for the province of Pennsylvania, compiled by William Penn, it was provided that every inhabitant of the province who paid scot and lot to the government should be deemed a freeman of the

province and should be capable of electing or being elected a member of the provincial council or general assembly of the province. *Frieszleben v Shallcross*, 14 Del (9 Houst) 1, 19 A 576.

Scotch peers. Those members of the English house of lords who hail from Scotland.

Scott v Sanford. See **Dred Scott** Case.

Scottish Rite. A modern Masonic order.

scoured wool. Wool cleaned and freed of dirt and grease; an agricultural commodity exempted from the general coverage of the Federal Motor Carrier Act. *Interstate Commerce Com. v Wagner* (DC Tenn) 112 F Supp 109.

scow. A watercraft with a flat bottom, propelled usually by a tugboat and used for carrying freight.

scrambling possession. A condition where two or more persons are struggling for the possession of land, or at least where one person has unlawfully entered upon the possession of another without his knowledge, or without opportunity on his part to determine whether he will submit to the possession of the other or not. 35 Am J2d Fore E & D § 18.

scramming contract. A mining contract which confers the right to mine and gather such ore as may be left within the limits of a mine or pit, the same having been opened and mined before.

Such a contract does not contemplate breaking through the walls of the mine or pit, and mining in a newly discovered vein of ore. *Davie v Lumberman's Mining Co.* 93 Mich 491, 53 NW 625.

scrap. Tobacco sweepings and bits torn from leaves, used in the manufacture of cigars and cigarettes.

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Latimer v United States, 223 US 501, 56 L Ed 526, 32 S Ct 242. Metal from worn out machines and vehicles, particularly automobiles, of value only for reprocessing or as an ingredient in the making of steel. *Clawson & Bals v Harrison* (CA7 Ill) 108 F2d 991. Clippings and pictures placed in a scrapbook. Brief memoranda.

scrapbook. A book in which pictures, clippings from newspapers, and other items of personal interest have been pasted or otherwise attached.

scrap iron. The waste from the manufacture of boilers, the erection of bridges, etc. *Schlesinger v Beard*, 120 US 264, 30 L Ed 656, 7 S Ct 456. Metal, otherwise known as "scrap" from worn out machines and vehicles, especially automobiles.

See **scrap**.

scrap turpentine. That part of the turpentine which, on exuding from the tree has trickled down the trunk and continues to adhere thereto. *Griffith v Hulyon*, 90 Fla 582, 107 So 354.

scratch sale. A term of the cotton exchange for a sale offset by a purchase at the same price on the same day. *Dupont v United States*, 300 US 150, 81 L Ed 570, 57 S Ct 391.

scratch sheet. A printed sheet devoted to horse racing generally or to the races to be run on the day of publication, giving the names of the horses entered, the jockeys up on each horse, facts as to the ownership, pedigree, age, and weight of the horses, the distance of the several races, the condition of the track, predictions as to the winners, and notations as to the horses once entered but "scratched," that is, withdrawn from a race, the latter presumably being the feature from which the name of the publication derives. Anno: 153 ALR 463.

scrawl. Shapeless or illegible handwriting. A mark with a pen serving as a seal.

screen credit. The right of an author of a play, produced as a motion picture or by television performance, to have his name appear as author upon the screen or in the televised broadcast. Anno: 23 ALR2d 311-313, § 20. The publicity given the name of the author in accord with such right. Credit given the producer, director, actors, etc. in a moving picture or televised production by listing the names on the screen.

screening. Obstructing the view. 25 Am J1st High § 67. Protecting by a screen, either literally, as by placing a screen to protect patrons in a stadium against batted balls, or figuratively, as where a public figure is protected by guards who keep crowds at a distance. Investigating persons, particularly persons seeking employment in positions of trust and responsibility.

screening coal. Putting coal through a screen for the purpose of removing the extremely small pieces, dirt, and other impurities.

scribere est agere. To write is to act. That is, writing is the doing of an act.

Therefore, a bare writing with no publication of it may amount to a crime; as if the writer indicts treasonable matter. See 4 Bl Comm 80.

scrinio judicis. See **in scrinio judicis.**

scrip. A document representing fractional shares in a stock dividend. An order on the state treasurer to pay the sum named whenever available funds are in the treasury. Hays v McDaniel, 130 Ark 52, 58, 196 SW 934. A credit entered in a public land office entitling the holder or his assignee to select and appropriate a certain number of acres of public land in a given locality. Wait v Commissioner of State Land-Office, 87 Mich 353, 356, 49 NW 600. A substitute for money in the form of certificates of indebtedness, employed in various parts of the country during the extremity of the Great Depression, particularly during the days of enforced closing of the banks.

scrip coupon ticket. A railroad ticket good over connecting lines and interchangeable as between carriers. 49 USC § 22(1).

scrip dividend. A dividend on corporate stock consisting of a scrip or certificate entitling stockholders who receive it to the privileges and rights specified therein, sometimes a right to distribution of accumulated earnings at a later date, at other times a right to additional stock, bonds, or other obligations of the corporation. Staats v Biograph Co. (CA2 NY) 236 F 454. A certificate issued by a corporation to its stockholder evidencing the holder's title to the same extent of interest in the property and franchise as a stock dividend, except that the corporation has the right to pay the scrip dividend out of future earnings, and except also that the scrip dividend confers no right to vote. Bailey v New York Cent. & HRR Co. (US) 22 Wall 604, 22 L Ed 840. A stock dividend, represented by a certificate or scrip, of fractional shares.

script. An original written instrument, as distinguished from a duplicate. The manuscript or typed copy of a play.

Scriptae obligationes scriptis tolluntur, et nudi consensus obligatio contrario consensu dissolvitur. Written obligations are released or discharged by writings, and an obligation of mere consent is dissolved or discharged by a consent to the contrary.

scriptis olim visis. See **ex scriptis olim visis.**

scriptum. A written instrument; a writing.

See **script.**

scriptum indentatum. An indented writing; an indenture.

scriptum obligatorium. A writing obligatory; an instrument under seal; a bond.

serivarius. An officer under the civil law who was also designated as registrarius and as actarius and whose duties were similar to those of a modern notary public; anciently, a scribe, who only took notes or minutes, and made short drafts of writings and instruments, both public and private. 39 Am J1st Notary § 3.

scrivener. One who has drafted an instrument, for example, a will. One who follows the occupation of drafting instruments. A copyist; a scribe; a clerk; a conveyancer.

scroll. A writing rolled up or designed to be rolled up. A scrawl or flourish intended as a seal.

scruple. Doubt or hesitancy respecting action to be taken, for example, reluctance to take an oath.

scutator. An officer whose duty it was to search the shores of a river for flotsam, jetsam, wreck, and the like and to guard the rights of the king therein.

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scuffle. A disorderly pushing or struggle by two or more persons; a fight.

scupper. An opening in a bulkhead on a ship, made to permit water to run off the deck. The Wildwood (DC Wash) 41 F Supp 956.

scurrilous. Vulgar, indecent, or abusive. 33 Am J1st L & S § 54.

scurvy. A disease to which sailors were particularly susceptible in the past, resulting from deficiency in diet, particularly a deficiency in vitamin C.

scutage. Money paid by the tenant to his lord in lieu of knight service. See 2 Bl Comm 74.

scutagio habendo. See **de scutagio habendo.**

scutagium. Same as **scutage.**

scutifer. The attendant of a knight; an esquire.

scuttling. Sinking a ship by opening holes below the water line. 48 Am J1st Ship § 636.

Scylla and Charybdis. See **between Scylla and Charybdis.**

s.d. Abbreviation of **sight draft.**

scutum. A large quadrangular wooden shield covered with hide; in feudal times signifying money paid in lieu of military service. See 2 Bl Comm 74.

Scylla and Charybdis. See **between Scylla and Charybdis.**

se. Himself; themselves; itself; the very person; the very thing.

See **inter se; per se.**

S.E. Abbreviation of **southeast.**

SE.4 An abbreviation of the southeast quarter of a section of land according to the government survey or of a lesser but square or rectangular portion of a section.

sea. The ocean. A salt-water arm of the ocean, even a river in which the tide ebbs and flows. *Pacific Milling & Elevator Co. v Portland*, 65 Or 349, 133 P 72. In the broader sense, any body of water of considerable size, whether fresh water or salt water.

See **at sea; four seas; perils of the sea.**

sea battery. A battery committed on the person of a seaman on the high seas.

sea brief. Same as **sea letter.**

sea burial. See **burial at sea.**

sea damaged. Damaged by exposure to a peril or perils of the sea.

A clause in a contract for the purchase of goods to be shipped by water, "sea damaged, if any, to be taken at a fair allowance," contemplates the risk of damage to the goods by perils of the sea, and does not restrict to any particular ship the subsequent transportation of the goods to their destination. *Harrison v Fortlage*, 161 US 57, 64, 40 L Ed 616, 619, 16 S Ct 488.

sea duty. See **sea service.**

seal. A symbol of authenticity. An impression made by means of an instrument or device, such as an engraved metallic plate, on wax or wafer affixed to an instrument, or directly upon the instrument itself. A scroll or other distinguishing mark placed upon an instrument as a seal. The word "seal" placed upon an instrument. The abbreviation "L.S." placed upon an instrument as a legal seal. 47 Am J1st Seals § 4. An essential of a deed at common law and under some statutes, 23 Am J2d Deeds §§ 1, 18, but disappearing from the requirements of the law with the expansion of literacy and the corresponding ability of a grantor to affix his own signature with legibility sufficient to authenticate the instrument as one representing his own act and deed. 47 Am J1st Seals § 8.

See **official seal; sealed and delivered.**

sea laws. A term sometimes applied to the sailing regulations which were founded in ancient usage and sanctioned by the adjudications of admiralty and prize courts, and which until comparatively recent times furnished the principal rules of navigation. 48 Am J1st Ship § 244.

sea lawyer. A term applied facetiously to a sailor who talks volubly of the legal rights of sailors, also to a person in another walk of life but contentious in respect of legal rights.

sealed. Having a seal affixed; under seal.

See **sealing ceremony.**

sealed and acknowledged. The equivalent of "sealed and delivered" in a certificate of acknowledgment. 1 Am J2d Ack § 75.

sealed and delivered. A phrase in a certificate of acknowledgment reciting the execution of the instrument by the person acknowledging. 1 Am J2d Ack § 75.

The intention to seal, whether expressed or implied, does not make a seal. The recital "signed, sealed and delivered," or the words "whereunto we have affixed our seals," do not make a sealed instrument, if as a fact nothing is affixed to the signatures which the law recognizes as a seal. *Empire Trust Co. v Heinze*, 242 NY 475, 478, 152 NE 266.

sealed contract. See **contract under seal; specialty.**

sealed grain. Grain in a field warehouse or granary, particularly grain pledged for the payment of a government loan made in a price-support program.

See **field warehousing; sealing up.**

sealed instrument. See **seal; sealed.**

sealed verdict. A verdict reached by agreement during a recess of the court, signed and sealed, to be presented and affirmed by the jury at the next opening of the court. 58 Am J1st Trial § 1010.

sealer. A public officer having the duty of inspecting scales or other measuring devices and placing a seal upon such as are found to be accurate. 56 Am J1st Wis & L § 21.

sea-letter. A ship's passport furnished by the customhouse, under the signature of the President of the United States and the secretary of state and usually issued only in time of war. *Sleght v Rhineland* (NY) 1 Johns 192, 203.

sea level. The level of the sea, midway between high and low tide; the point from which heights on land are indicated.

sealing ceremony. The form of solemnization of marriages required of its members by the Mormon Church, the same being sufficient to constitute a valid marriage between persons competent to enter into a marriage, assuming that requirements imposed by law other than the matter of ceremony are met. *Hilton v Roylance*, 25 Utah 129, 69 P 660.

sealing up. Affixing a seal, usually a metal seal, to the door of a building or the cover of a container in such position that the seal must be broken in order to open the door or raise the cover. An act

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of dominion over a safe sufficient to perfect a levy upon the contents thereof. 30 Am J2d Exec § 242.

sealing valve. A valve on a gas meter with so close a bearing as absolutely to stop the flow of gas when adequately closed. *Gill v Eakin*, 203 Miss 204, 33 So 2d 821.

seal of corporation. See **corporate seal.**

seal of court. An instrument authenticating by imprint or otherwise the process and writs issued by the court. 42 Am J1st Proc § 12. A requirement in the case of a court of record. *Aikman v Edwards*, 55 Kan 751, 42 P 366; *Van Norman v Gordon*, 172 Mass 576, 53 NE 267.

seal of the United States. The great seal of the Federal Government of which the secretary of state is the custodian.

The signature of the President is the warrant for affixing the great seal to an instrument executed by the President and is only to be affixed to an instrument which is complete. It attests by an act supposed to be of public notoriety, the verity of the presidential signature. *Marbury v Madison* (US) 1 Cranch 137, 158, 2 L Ed 60, 67.

seal of the United States Supreme Court. The arms of the United States on a piece of steel the size of a dollar, with the words in the margin "The Seal of the Supreme Court of the United States." Rule 1, adopted at the February term, 1790. 1 L Ed 432.

seals of private credit. Seals used by private persons or private corporations. 47 Am J1st Seals § 3.

seals of public credit. Seals kept and used by public authority. *Kirksey v Dates* (Ala) 7 Port 529. The Great Seal of the United States; the Great Seal of a state, the seals of courts of record, and other seals of which judicial notice is taken.

In England, such seals are those of the king and of his ancient and public courts of justice, the great seal of the United Kingdom, the great seals of England, Scotland, and Ireland and the seal of the Corporation of London. 47 Am J1st Seals § 3.

seam. The line where pieces of cloth are joined with thread. A layer of coal or other mineral underground; a fissure carrying ore or other valuable mineral. 36 Am J1st Min & M § 83.

A term often used synonymously with the word "stringer," and commonly understood by miners to be a crack or crevice filled by mineral deposit, and occurring in the country rock, and by means of which the prospector anticipates being led to an ore body or deposit of commercial value. Oftentimes, a "discovery" is made on a "seam," and if so made, the location is valid in law. *McShane v Kenkle*, 18 Mont 208, 44 P 979.

seaman. An enlisted man of the Navy, ranking immediately above seaman apprentice and immediately below petty officer, third class. Broadly, a person whose occupation is to assist in the management of a vessel at sea. *Holt v Cummings*, 102 Pa 212. A member of the crew of a ship; a mariner. *Scharrenberg v Dollar S.S. Co.* 245 US 122, 127, 62 L Ed 189, 193, 38 S Ct 28. A common sailor and, for some purposes, any person performing a maritime service, such as a mate, pilot, purser, steward, etc. 48 Am J1st Ship § 144. In one sense, including master, a ship's officer, ship's surgeon, as well as a member of the crew. 47 Am J1st Salv § 20 (as person entitled to salvage).

The term as used in various statutes, is a flexible term, the meaning of which depends upon the circumstances in which it is used and the purpose of a particular statute in which it occurs. Anno: 161 ALR 832.

See **mariner**.

seaman apprentice. An enlisted man of the Navy, ranking immediately above a seaman recruit and immediately below a seaman.

seaman at sea. For the purposes of executing a valid seaman's will, on board a vessel which has left the wharf and is being navigated for the purposes of the voyage upon which he shipped as a member of the crew, notwithstanding the vessel is still in a river, perhaps in a harbor, rather than on the open sea. 57 Am J1st Wills § 663.

seaman recruit. An enlisted man of the Navy, of the lowest rank.

seaman's lien. The lien which a seaman has on the ship for his wages, which he may enforce either in a court of admiralty or a court of common law. 48 Am J1st Ship §§ 161, 162.

seaman's will. The informal will of a seaman, whether oral or in writing, rendered valid, where the will of a person of another occupation would be invalid, under an exception from compliance with the formalities required to be observed in the execution of wills generally, recognized because of the dangers, diseases, disasters, and the possibility of sudden death constantly besetting a seaman and the inability of such a person to find the time or the means to make a deliberate and written testamentary disposition. 57 Am J1st Wills § 661.

sea mile. Same as **nautical mile**.

seance. A demonstration in which a medium purports to communicate with departed spirits. *McMasters v State*, 21 Okla Crim 318, 207 P 566, 29 ALR 292.

sea pay. Increased pay because of performance of sea duty. 36 Am J1st Mil § 71.

See **sea service**.

sea perils. See **perils of the sea**.

seaplane. An aircraft constructed and equipped for landing upon water; a vessel or marine object for some purposes, particularly the rules of navigation and the law of salvage. 8 Am J2d Avi § 20.

A seaplane is a mechanical device for aerial navigation, within the meaning of provision in accident policy exempting insurer from liability for injuries, fatal or nonfatal, sustained by insured while in or on any vehicle or mechanical device for aerial navigation, or in falling therefrom or therewith or while operating or handling any such vehicle or device. *Wendorff v Missouri State Life Ins. Co.* 318 Mo 363, 1 SW2d 99, 57 ALR 615.

sea port. See **port**.

search. A matter of invasion and quest, implying some sort of force, actual or constructive, much or little. *State v Quinn*, 111 SC 174, 97 SE 62, 3 ALR 1500. A quest by an officer of the law, secret, intrusive, or accompanied by force. *Hale v Henkel*, 201 US 43, 80, 50 L Ed 652, 668, 26 S Ct 370. An examination or inspection, by authority of law, of one's premises or person, with a view to the discovery of stolen, contraband, or illicit property, or of evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which one is charged. *Newberry v Carpenter*, 107 Mich 567, 65 NW 530. The right of a belligerent to search a merchant ship of a neutral nation at sea,

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or its papers for contraband or for enemy subjects. 56 Am J1st War § 152. Inspection of a home by a health officer. *District of Columbia v Little*, 85 App DC 242, 178 F2d 13, 13 ALR2d 954.

See **search and seizure; title search**.

search and seizure. Means for the detection and punishment of crime; the search for and taking custody of property unlawfully obtained or unlawfully held, such as stolen goods, property forfeited for violation of the law, and property the use or possession of which is prohibited by law, and the discovery and taking into legal custody of books, papers, and other things constituting or containing evidence of crime:

See **search warrant; unreasonable search and seizure**.

searching record. The familiar rule that a demurrer or its equivalent in a motion searches the whole record, is carried back to the first substantial defect, and that judgment is to be given against the party who committed the first fault in pleading, for him who, upon the whole record, appears entitled to judgment. 41 Am J1st Pl § 232.

search warrant. A form of criminal process which may be invoked only in furtherance of a public prosecution. An order in writing, in the name of the people, the state, or the commonwealth, according to the local practice, signed by a magistrate, and directed to a peace officer, commanding him to search for personal property and bring it before a magistrate. 47 Am J1st Search § 3. An examination or inspection, by authority of law, of one's premises or person, with a view to the discovery of stolen, contraband, or illicit property, or some evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which he is charged. 47 Am J1st Search § 4.

See **blanket search warrant**.

sea service. Service in the Navy performed at sea under the orders of a department, and in vessels employed by authority of law. 36 Am J1st Mil § 71.

seashore. See **shore.**

season. A division of the year, as spring, summer, fall, or winter, recognized because of distinctive condition of the weather, the number of hours of daylight, the growth, and maturity of plants. The business year in theatrical, recreational, or entertainment ventures and in winter and summer resorts. A period wherein the taking of particular game or fish is permitted or not permitted, depending upon whether the designation is that of an open or closed season.

See **closed season; open season.**

seasonable appearance. An appearance within season; that is, a defendant's appearance in an action within the time allowed by law, after the service of the summons upon him.

seasonable motion. A motion made in good time, that is, timely in reference to the situation of the adverse party, each case being controlled by the particular circumstances, if not by express statute. Layton v Lee (Del) 196 A2d 578.

seasonably. Acting at or within the time agreed, or if no time is agreed, at or within a reasonable time. UCC § 1-204(3).

seasonably turn. A term often employed in a rule of the road, meaning that the operators of vehicles proceeding in the opposite direction shall, upon meeting in the highway, turn to the right in such time that neither shall be retarded in his progress by reason of the other occupying the half of the way which the law has assigned to his use, when he may have occasion to use it in passing. Cupples Mercantile Co. v Bow, 32 Idaho 774, 189 P 48, 24 ALR 1296, ovrl'd on another point Hamilton v Carpenter, 49 Idaho 629, 200 P 724; Neal v Rendall, 98 Me 69, 56 A 209. Turn in season to prevent a collision. Bragdon v Kellogg, 118 Me 42, 105 A 433, 6 ALR 669, 671.

seasonal. Of or pertaining to the season. To be expected of the season at hand, as a seasonal sickness or seasonal weather. Lincoln Gas & Electric Co. v Watkins, 113 Neb 619, 204 NW 391.

seasonal conditions. Conditions of the weather peculiar to a particular season of the year. Layman v State Unemployment Compensation Com. 167 Or 379, 117 P2d 974, 136 ALR 1468. Any condition of temperature, health of persons or animals, or the growth of plants reasonably to be expected during a particular season of the year.

See **seasonal.**

seasonal employment. Employment in occupations which can be carried on only at certain seasons or fairly definite portions of the year. Hogsett v Cinek Coal & Feed Co. 127 Neb 393, 255 NW 546, 93 ALR 305.

seasonal flood. A flood normally to be expected to occur in a stream at certain seasons or at other regular intervals due to the usual manifestations of nature in precipitation of water at such times. 56 Am J1st Wat § 91.

seasonal industry. An industry whose activities for the most part are confined to a particular season or particular seasons of the year, for example, the packing or processing of fruits and vegetables. 31 Am J Rev ed Lab § 699.

seasonal service. Service by a carrier during the harvesting season when additional cars are required for the moving of crops. 13 Am J2d Car § 157.

seasonal stream. A stream which flows only during that part of the year when rains occur. 56 Am J1st Wat § 9.

seasonal use. The use of real property, not continuous but seasonal, as for crop-raising, fishing, logging, taking off ice, etc. 3 Am J2d Adv P § 57.

sea stores. The supplies of different articles provided for the subsistence and accommodation of the ship's crew and passengers. United States v Hawley & Letzerich (DC Tex) 160 F 734.

seat. To place a person in a seat, literally or figuratively, as to seat one elected or appointed to an office. In a rare sense, to settle upon land. Hawkins v Barney's Lessee (US) 5 Pet 457, 468, 8 L Ed 190, 194.

See **seated land.**

seat belt. A requirement in a passenger aircraft; a contrivance of heavy bands with buckles for fastening one's person to the seat or floor as a protection in case of a sudden movement in the air or an unexpected but possible occurrence fraught with peril upon takeoff or landing. The requirement of such a contrivance now made by statute in most jurisdictions in respect of automobiles, intended as a protection against injury in collisions, upsets, skids, and sudden stops.

seated land. Occupied or cultivated land; land producing a revenue. Stotzel v Jackson, 105 Pa 562, 567.

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seat of county. See **county seat.**

seat of court. The place of holding court, usually fixed by constitution or statute. 20 Am J2d Cts § 37.

See **county seat.**

seat of government. The place where the primary instrumentalities of government are located, especially the legislative and executive branches. The capital city of a state. The District of Columbia. 24 Am J2dDC§1.

seat of justice. See **county seat; seat of court.**

seat on exchange. A term of art for membership in a stock or commodity exchange, constituting a right to do business on the exchange, subject to the rules thereof. Sometimes regarded as property, at other times as a mere personal license or privilege, but in any event a thing of value, often of great value. 50 Am J1st Stock Ex § 11.

sea watch. A ship's lookout composed of one or two men designated to perform that duty while half of the ship's crew is on duty at sea. O'Hara v Luckenbach S.S. Co. 269 US 364, 371, 70 L Ed 313, 317, 46 S Ct 157.

See **watch.**

seaweed. Vegetation grown in the sea but cast upon the shore by the action of the water. Carr v Carpenter, 22 RI 528, 48 A 805.

See **kelp.**

seaworthy. Able to withstand the forces of the sea. Fireman's Fund Ins Co. v Compania de Navegacion (CA5 La) 19 F2d 493. Reasonably fit, from the standpoint of a vessel, to perform the service which she has undertaken to perform. Tight, staunch, strong in the hull, well furnished and victualled, and in all respects equipped in the usual manner for the service in which she is engaged, including a crew, adequate in number and sufficient and competent for the voyage, and a master of skill, competence, sound judgment and discretion. 48 Am J1st Ship § 44. The condition of a ship staunch and sound, of sufficient materials and construction, with sufficient sails, tackle, rigging, cables, anchors, stores, and supplies, commanded by a master of competent skill and capacity, worked by a competent and sufficient crew, and generally, in every respect, fit for the voyage contemplated. 29A Am J Rev ed Ins § 999.

A ship which is badly stowed is unseaworthy. *The Malcolm Baxter, Jr. French Overseas Corp. v French Republic* (CA2 NY) 20 F2d 304.

seaworthiness. See **seaworthy**.

sebastomania. Religious mania.

se bene gerendo. See **de se bene gerendo**.

SEC. Abbreviation of Securities and Exchange Commission.

sec. An abbreviation of security. *Harrison v Cravens*, 25 Tenn App 215, 155 SW2d 873.

The letters "sec." appearing after the name of a signer on a promissory note are to some extent indicative that the relation of principal and surety existed between such signer and the other signers. *Koblegard Co. v Maxwell*, 127 W Va 630, 34 SE2d 116.

secession. A withdrawal from membership in an organized group. The attempted but ineffectual withdrawal of eleven southern states from the Union established by the United States Constitution.

The attempt of a state to withdraw from the United States. The Union of states is perpetual and indissoluble, and no state has the right to secede therefrom, nor will its attempt to separate itself from the Union destroy its identity as a state, or free it from the binding force of the Federal Constitution. 49 Am J1st States § 16.

See **schism**.

seck. Without the right or remedy of distraining.

See **rent seck**.

seclusion. A withdrawal from society. A voluntary confinement. *Phelps v Reinach*, 38 La Ann 547, 551.

secondarily liable. See **secondary liability**.

second arrest. See **rearrest**.

secondary agreement. Same as **secondary contract**.

secondary boycott. A boycott applied with the purpose of bringing an alleged offender to terms by refusing to have any business relations with persons dealing with such offender, until he has yielded to the demand for terms. 31 Am J Rev ed Lab § 463; 36 Am J1st Monop etc § 27. A combination, not merely to refrain from dealing with a person, or to advise or by peaceable means persuade his customers to refrain, but to exercise coercive pressure upon such customers, actual or prospective, in order to cause them to withhold or withdraw patronage from him through fear of loss or damage to themselves should they deal with him. *Duplex Printing Press Co. v Deering*, 254 US 443, 65 L Ed 349, 41 S Ct 172, 16 ALR 196. A combination of many to injure one in his business by coercing third persons against their will to cease patronizing him by threats of similar injury. *Truax v Corrigan*, 257 US 312, 66 L Ed 254, 42 S Ct 124, 27 ALR 375, per opinion of Chief Justice Taft. An attempt by a labor organization or its agents to exercise coercive pressure upon an employer, not directly concerned in a labor dispute, by inducing or encouraging his employees to engage in a strike or concerted refusal to work in an effort to bring about some adverse action by such employer against an employer with which the labor organization has a labor dispute. Anno: 96 L Ed 284.

secondary contract. A contract which modifies or supersedes a prior contract known as the primary contract. 17 Am J2d Contr § 459.

See **subcontract**.

secondary conveyances. Same as **derivative conveyances**.

secondary distribution value. The value of a comparatively large block of corporate stock, calculated on the assumption that the most prudent method of disposal calls for marketing a part of the stock from time to time rather than throw the entire block on the market. *Newberry v Walsh*, 20 NJ 484, 120 A2d 242.

secondary easement. An easement appurtenant or incident to the principal or primary one.

Every easement includes secondary easements; that is, the right to do such things as are necessary for the full enjoyment of the easement itself. But this right is limited and must be exercised in such a reasonable manner as not injuriously to increase the burden upon the servient tenement. The burden of the dominant estate cannot be enlarged to the manifest injury of the servient estate by any alteration in the mode of enjoying the former. The owner must not trespass upon the servient tenement

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beyond the limits fixed by the grant or use. *North Fork Water Co. v Edwards*, 121 Cal 662, 54 P 69.

secondary evidence. Evidence which is not the primary or best evidence of which the case is susceptible. Evidence admissible of necessity, although not primary evidence, because of the impossibility of producing the primary evidence, as where an instrument pertinent to a case has been lost or destroyed without fault on the part of the party who otherwise would produce it in evidence, in which case, a true copy or oral evidence of the contents is admissible. 29 Am J2d Evi §§ 448 et seq.

secondary franchise. The powers granted to a corporation by the sovereign and specified in its charter or by statute. 18 Am J2d Corp § 66. Any of those franchises of a corporation other than its right or franchise to be a corporation, which is the primary franchise. *Virginia Canon Toll Road Co. v People ex rel. Vivian*, 22 Colo 429, 45 P 398.

secondary liability. The liability on an instrument of any person who is not primarily liable thereon. 11 Am J2d B & N § 525. The liability of one of two tortfeasors liable to the same injured person of such nature in reference to the liability of the other tortfeasor that he is entitled to assert a liability over the other tortfeasor for indemnification as to payment required to be made by him to the injured person. The liability of an employer for injury to a third person caused by the act of the employee. *Schubert v August Shubert Wagon Co.* 249 NY 253, 164 NE 42, 64 ALR 293.

Primary and secondary liability, essential for a right of indemnity, are not based on a difference in degrees of negligence or on any doctrine of comparative negligence, but on a difference in the character or kind of wrongs which cause the injury, and in the nature of the legal obligation owed by each of the wrongdoers to the injured person. *Builders Supply Co. v McCabe*, 366 Pa 322, 77 A2d 368, 24 ALR2d 319.

secondary meaning. A meaning of a word or phrase additional to its primary meaning, for example, the meaning of the word "sheep" as a timid person. A special or trade meaning acquired by usage in connection with one's goods, services, or business. Anno: 150 ALR 1068; 23 ALR2d 260.

secondary obligation. See **secondary liability**.

secondary party. A party to an instrument but under a secondary liability.

A guaranty of payment endorsed on a note, while creating an absolute obligation to pay, does not make the guarantor a primary party, and since his liability is secondary, he is released by an extension of time to the maker of the note. *Winkle v Scott* (CA8 Mo) 99 F2d 299. secondary school. A high school. 47 Am J1st Sch § 4.

secondary service wire. A line supplying electric current to a household, place of business, or factory. Anno: 40 ALR2d 1322, § 8.

second class mail. Newspapers and other periodical publications. 41 Am J1st P O § 57.

second cousin. The same as first cousin once removed. Re O'Mara's Estate, 106 NJ Eq 311, 151 A 67. The child of a first cousin. Anno: 54 ALR2d 1011. A relative in the fifth degree according to the civil law method of computing degrees of kinship which prevails in most American jurisdictions. 23 Am J2d Desc & D § 48.

The children of one's first cousins are sometimes popularly called his second cousins, but are, more properly, his first cousins once removed. Culver v Union & N. H. Trust Co. 120 Conn 97, 179 A 487, 99 ALR 663.

second cousin once removed. The child of a second cousin. A relative in the sixth degree according to the civil law method of computing kinship which prevails in most jurisdictions. Anno: 54 ALR2d 1012, § I(b). Often called a third cousin.

second degree burglary. A daytime burglary. The breaking and entering of an uninhabited dwelling house or apartment, or a dwelling house or apartment not actually occupied at the time, with intent to commit a felony. 13 Am J2d Burgl § 28.

second degree manslaughter. See **manslaughter**.

second degree murder. See **murder in the second degree**.

second degree principal. See **principal in second degree**.

second degree relationship. A degree of kinship, including brothers, sisters, grandparents and grandchildren, according to the civil law method of computing degrees of kinship which prevails in most American jurisdictions. 23 Am J2d Desc & D § 48.

See **degrees of kinship**.

second deliverance. The remedy of a nonsuited plaintiff in replevin.

In an action of replevin, the statute of Westin. II c 2 (1285), restrained a plaintiff, when nonsuited, from suing out a fresh replevin, but allowed him a writ of second deliverance by means of which he could again secure possession of the goods by giving security as before. See 3 Bl Comm 150.

second delivery. The delivery by a depository in escrow pursuant to the terms of the deposit. 28 Am J2d Escr § 10.

See **redelivery**.

second distress. A new distress which was levied where the first one was not sufficient to satisfy or secure the demand of the plaintiff.

secondhand. Any material or article of which prior use has been made. Weaver v Palmer Bros. Co. 270 US 402 409, 70 L Ed 654, 656, 46 S Ct 320.

secondhand automobile. A used car. 47 Am J1st Sec H D § 11.

secondhand dealer. A dealer in secondhand goods. 47 Am J1st Sec H D § 2.

secondhand dealer's license. A license required of a secondhand dealer as a regulatory measure. 47 Am J1st Sec H D § 3.

secondhand evidence. Hearsay.

secondhand goods. Goods of which prior use has been made. *Weaver v Palmer Bras. Co.* 270 US 402, 70 L Ed 654, 46 S Ct 320.

secondhand store. Any store in which any kind of secondhand goods are dealt in, for example, secondhand furniture or secondhand books. 47 Am J1st Sec H D § 2.

secondhand value. The value of a used article, taking account of the inability to reflect the merely personal regard of the owner for such items as household goods and clothing in estimating the value. 22 Am J2d Damg § 150.

second indictment. See **reindictment**.

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second jeopardy. See **prior jeopardy**.

second lieutenant. A commissioned officer of the Army, holding the lowest rank of commissioned officers. A commissioned officer of the Marine Corps of comparable rank.

second mortgage. A junior mortgage, a mortgage to which another mortgage is prior.

second of exchange. The second of a set of bills of exchange, drawn in duplicate or triplicate, the honor of any one of which avoids the others. *Bank of Pittsburgh v Neal (US)* 22 How 96, 16 L Ed 323.

second of exchange, first unpaid. A notation appearing on the face of a bill of exchange for the purpose of indicating that it is one of a set of the same bill. 11 Am J2d B & N § 61.

second resolution in Wild's Case. A principle declared in a famous English decision (*Wild's Case*, 6 Coke 16d, 77 Eng Reprint 227):-where there is a devise to one and his or her children, and there are children in existence, it will be presumed, in the absence of any contrary indication in the context, that the parent and children were intended to take a fee concurrently. Anno: 161 ALR 629 et seq; 28 Am J2d Est § 69.

seconds. Those persons who attend upon the respective combatants in the fighting of a duel and who attend to the requisite formalities, before and after the combat. Those persons who attend upon the participants in a boxing match or prize fight. Articles of merchandise with some defects or imperfections, but nevertheless of value.

The terms "firsts" and "seconds" are terms of quality, common in mercantile usage. See *Iselin v United States*, 271 US 136, 138, 70 L Ed 872, 873, 46 S Ct 458.

second surcharge. A writ issued against a person who had surcharged a common after there had been an admeasurement of pasture. See 3 Bl Comm 239.

secret. Undisclosed. That which is not communicated or disclosed.

See **trade secret**.

secretary. A person employed to take care of correspondence and records in an office, sometimes vested with responsibility in the management of the office.

secretary of corporation. A corporate officer, sometimes having no function other than that of keeping a record of the business transacted at stockholders', directors', and committee meetings, but ordinarily possessing inherent or implied power to perform certain acts necessary to the transaction of the business of the corporation. 19 Am J2d Corp § 1172.

Secretary of State. The head of the United States State Department and ranking member of the Cabinet. A state office, ordinarily created by constitutional provisions.

As a rule his duties are such as those of countersigning and affixing the great seal of the state to commissions, official acts, and other instruments issued or executed by the governor; the certifying to state measures; the filing of petitions under initiative and referendum laws; the filing of certificates of nomination under certain laws; the canvassing of returns of state elections; and the keeping of public state records. 49 Am J1st States § 53.

See **State Department.**

secret assault. An assault made in such a manner that the person assailed is prevented from seeing who his assailant is and from repelling the assault. *State v Jennings*, 104 NC 774, 776, 10 SE 249.

secret ballot. A method of election essential to the preservation of the integrity of the election. A secret method of voting at an election. *Johnson v Clark* (DC Tex) 25 F Supp 285.

secrete. To conceal. To hide property; to put property where an officer of the law will probably be unable to find it. 6 Am J2d Attach § 236. To hide in some place of secrecy. *Darneal v State*, 14 Okla Crim 540, 174 P 290.

secret formula. A formula for the production of a substance or article; a formula of value in improvement of product or in stepping up production. 52 Am J1st Tradem § 138.

secret hearing. See **closed trial or hearing.**

secret lien. A lien which does not appear of record or in any other manner so as to be noticed by purchasers and encumbrancers. *Palmer v Howard*, 72 Cal 293, 13 P 858.

secret partnership. A partnership composed of persons one or more of whom is not disclosed to the public as a member of the firm. *Winship v Bank of the United States (US)* 5 Pet 529, 561, 8 L Ed 216, 228.

secret process. A mechanical or industrial process of value as an improvement of product or in an increase of production per unit of time. 52 Am J1st Tradem § 138.

Such a method of manufacture or operation in the production of a commercial product as is understood to constitute a process under the patent laws; a mode of treatment of certain materials to produce a given result. It is a conception of the mind seen only by its results. Thus, where the ingredients used in the manufacture of an article were well known, but by combining them by a different method from any other in use the result is a product of a different character from that produced by the ordinary method of combining them, the method of mixing the ingredients and so treating them is a secret process. *Taylor Iron & Steel Co. v Nichols*, 133 Am St Rep 760.

The difference between a secret process and a patent is that the owner of a patent has a monopoly against all the world, while the owner of a secret process has no right except against those who have contracted, expressly or by implication, not to disclose the secret, or who have obtained it by unfair means. The jurisdiction of equity to protect such trade secrets is founded upon trust and confidence. The court fastens the obligation upon the conscience of the party, and enforces it against him in the same manner as it enforces against a party to whom a benefit is given, the obligation of performing a promise on the faith of which the benefit has been conferred. Whether the subject matter is patentable or not, if the designer discovers and keeps secret a process of manufacture, though he will not have an exclusive right to it as against the public, after he shall have published it, or against those who in good faith acquire knowledge of it, yet he has a property right, which a court of chancery will protect

against one who in bad faith and breach of confidence undertakes to apply it to his own use. *Smoley v New Jersey Zinc Co.* (DC NJ) 24 F Supp 294.

secret profit. A profit or advantage obtained by a promoter, director, or officer of a corporation by reason of his official position without bringing the

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transaction to the attention of the stockholders. 18 Am J2d Corp §§ 111-117; 19 Am J2d Corp § 1281.

A profit is not secret or unlawful if all the parties having a direct interest know of it and assent to it, or do not repudiate it. *Hays v The Georgian*, 280 Mass 10, 181 NE 765, 85 ALR 1251.

secret society. A society whose meetings are for the most part closed to the public, limited strictly to members, employing signs and ritual which are secret, being protected against disclosure by an obligation under oath taken by each member.

See **lodge**.

secrets of state. See **state secret**.

secrets of trade. See **trade secrets**.

secret testament. Same as **mystic testament**.

secret trust. A term frequently applied to any express or implied arrangement or understanding between a testator and a legatee whereby the latter is to take ostensibly as an ordinary legatee under the will of the testator, but is thereafter to apply the bequest or a part of it toward some charitable purpose; the real design of the bequest being to circumvent the statute limiting charitable bequests and devises. 15 Am J2d Char § 28.

secret vote. The ordinary election by ballot as conducted in the United States. 26 Am J2d Elect § 234.

See **secret ballot**.

sect. See **religious sect**.

secta. Suit in court. The followers of the plaintiff in an ancient common-law action, who accompanied him to court to support the averments of his declaration. See 3 Bl Comm 295.

secta ad curiam. A writ which lay against a party who refused to perform his suit at the county court or court-baron.-Cowell.

secta ad furnum. Suit at the furnace. See **secta ad molendinum**. See 3 Bl Comm 235.

secta ad molendinum. A writ to compel the defendant to grind his corn at the plaintiff's mill.

The writ lay where the plaintiff enjoyed this right by custom or prescription. Likewise, a man had a writ of *secta ad furnum*, *secta ad torrale*, et ad omnia alia hujusmodi (his suit at the oven, his suit at the kiln and all others of the same kind;) for their suit or service due to his public oven, his bake house or his kiln. See 3 Bl Comm 235.

secta ad torrale. Suit at the bake house.

See **secta ad molendinum**.

secta curiae. A tenant's attendance at court, as an incident of certain feudal tenure.

Secta est pugna civilis, sicut actores armantur actionibus, et quasi, accinguntur gladiis, ita rei (e contra) muniuntur exceptionibus, et defenduntur, quasi, clypeis. A suit is a civil fight, and just as the plaintiffs are armed with actions and, as it were, girded with swords, so the defendants are, on the other hand, fortified with pleas and defended, as it were, with shields.

Secta quae scripto nititur a scripto variari non debet. A suit which is founded upon a writing ought not to vary from the writing.

sectarian. Pertaining to some one of the various religious sects. People ex rel. Vollmar v Stanley, 81 Colo 276, 255 P 610.

Those religious doctrines are sectarian which are the doctrines of one religious sect and are not shared in common with other religious sects. State ex rel. Weiss v District Board of School Dist. 76 Wis 177, 44 NW 967.

sectarian book. A book which shows that it teaches the peculiar dogmas of a religious sect as such.

A book is not sectarian which merely comprehends the dogmas as interpreted by a part of the adherents of a sect; nor is a book sectarian merely because it was edited or compiled by a person of a particular sect. It is not the authorship or the mechanical composition, but the contents which give the book its character. Hackett v Brooksville School Dist. 120 Ky 608, 87 SW 792.

sectarian college or university. A college or university maintained by a church or religious sect. 15 Am J2d Colleges § 31.

sectarian instruction. As prohibited in public schools by constitutional provision, an instruction in religious doctrine, particularly a doctrine believed by some religious sects and rejected by others. State ex rel. Freeman v Scheve, 65 Neb 853, 91 NW 846, 93 NW 169.

sectarianism. Teaching or publicizing religious belief in a public institution, especially a public school. 47 Am J1st Sch § 208.

sectarian purpose. A purpose in aid or furtherance of some religious sect or denomination. People ex rel. Vollmar v Stanley, 81 Colo 276, 255 P 610.

sectarian school. A school maintained by a church or religious body, usually giving sectarian instruction. A school which fosters and, in its instruction, to some extent, propagates the belief and doctrine of some particular religious sect. Hackett v Brooksville School Dist. 120 Ky 608, 87 SW 792.

To constitute a sectarian school or sectarian institution which may not lawfully be maintained at public expense, it is not necessary to show that the school is wholly devoted to religious or sectarian instruction. Knowlton v Baurhover, 22 Iowa 691, 166 NW 202, 5 ALR 841.

See **parochial school.**

sectarian teaching. See **sectarian instruction.**

sectator. A suitor; a tenant who owed to his lord the service of secta curiae, that is, of attendance at court.

section. A numbered area of 640 acres in a square, according to the governmental survey of public lands. In common usage, an area of 640 acres according to the government survey in any combination of parts. A region contained in a much larger area. A distinct part of a book or article. A subdivision of a chapter, indicated by the character "§ ". A subdivision or paragraph of a statute or code. See Lehmann v Revell, 354 Ill 262, 188 NE 531; State v Babcock, 23 Neb 128, 133.

sectional prejudice. Local prejudice. Anno: 78 ALR 1456.

section boss. An employee of a railroad who directs the work of section hands, having duties comparable to those of a foreman in an industry.

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section hand. A railroad worker employed in the maintenance of roadbed and track.

section number. The number given a section of land laid out by the government survey.

See **township.**

sectores. (Roman law.) The successful bidders or buyers at a public auction.

secular. Temporal; pertaining to temporal things, things of the world; worldly; distinguished from the holy or spiritual. *Allen v Deming*, 14 NH 133, 139.

secular business. An engagement in secular things, such as the giving of a note. *Allen v Deming*, 14 NH 133, 139.

secular clergy. Those members of the clergy who did not belong to any monastery or religious house, as distinguished from the regular clergy who did.

secular day. A day other than Sunday. A day for the transaction of business generally. *State v Duncan*, 118 La 702, 43 So 283.

secundum. According to; in accordance with; in favor of. Following; coming close behind.

See **Corpus Juris Secundum.**

secundum aequum et bonum. According to justice and right.

secundum allegata. According to the allegations; that is, according to the allegations contained in the pleadings. See 3 Bl Comm 142.

secundum allegata et probata. According to the pleadings and the proofs.

secundum consuetudinem manerii. According to the custom of the manor.

secundum formam chartae. According to the form of the deed or charter.

secundum formam doni. According to the form of the gift.

secundum formam statuti. According to the form of the statute.

secundum legem communem Angliae (se-kun'dum le jem kom-mn'nem ang'li-e). According to the common law of England.

secundum legem et consuetudinem Angliae. According to the law and custom of England. See 4 Bl Comm 262.

secundum naturam. According to the nature; according to nature; natural.

Secundum naturam est, commoda cujusque rei eum sequi, quem sequentur incommoda. It is according to nature that he who has the benefit of the thing should have the burden.

secundum normam legis. According to the rule of law.

secundum probata. According to the proofs; that is, according to the evidence brought out at the trial.

secundum regulam. According to rule.

secundum regulas. According to the rules. See 1 BI Comm 387.

secundum subjectam materiam. According to the subject matter. See 1 BI Comm 229.

secundum usum mercatorum. According to the custom of merchants; that is, according to the "law merchant."

secure. Adjective: Stable; unlikely to fail or fall. Free from worry. Not exposed to peril. Verb: To protect. To keep in a position not exposed to peril. To make certain of payment, guaranteeing against the possibility of nonpayment. Scholbe v Schuchardt, 292 Ill 529, 127 NE 169, 13 ALR 247, 250. To give assurance or guaranty against a risk or hazard of some kind. Scholbe v Schuchardt, 292 Ill 529, 127 NE 169, 13 ALR 247.

secured creditor. A creditor under an obligation secured as to payment by lien or incumbrance upon property of the debtor or a third person. In bankruptcy, a creditor who has security for his debt upon the property of a bankrupt of a nature to be assignable under the Act or who owns a debt for which some indorser, surety, or other person secondarily liable for the bankrupt has such security upon the bankrupt's assets. Bankruptcy Act § I(28); 11 USC § 1(28).

secured debt. See **secured creditor; secured transaction.**

secured transaction. An obligation secured by a mortgage or other lien.

See **secured creditor; security interest.**

securitas. Security; a surety; a release; a discharge.

securitate pacis. A writ which lay to cause a person to give security to keep the peace.

securities. See **security.**

Securities Act of 1933. A federal statute controlling and regulating the issuance and sale of securities in the interest of the investing public. 15 USC §§ 77a et seq. 47 Am J1st Secur A § 1.

securities acts. Statutes controlling and regulating the issuance and sale of securities for the purpose of protecting the investing public. 47 Am J1st Secur A § 1.

Securities and Exchange Commission. An agency provided by the Federal Securities Exchange Act, invested with powers and duties in the administration and enforcement of the Federal Securities Exchange Act. 50 Am J1st Stock Ex § 15.

securities exchange. A stock exchange; an exchange for transactions in securities.

Securities Exchange Act. A federal statute enacted in 1934, embodying a comprehensive plan for the regulation of securities exchanges. 15 USC §§ 78 et seq.; 50 Am J1st Stock Ex § 15.

Securities Valuation Reserve. See **Mandatory Securities Valuation Reserve.**

security. A stock certificate, bond, or evidence of secured indebtedness. Anno: 47 ALR2d 229. A share of stock. Anno: 52 ALR 1098 (term as used in a will). A stock, bond, or other contract wherein an investment is made for the purpose for securing

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income or profit. 47 Am J1st Secur A § 16. Any instrument issued or offered to the public by any company, evidencing or representing any right to participate or share in the profits or earnings or the distribution of assets of any business carried on for profit. *People v McCalla*, 63 Cal App 783, 220 P 436. An instrument issued in bearer or registered form of a type commonly dealt in upon securities exchanges or markets or is commonly recognized in any area in which it is issued or dealt in as a medium for investment; an instrument evidencing a share, participation, or other interest in property or in an enterprise or evidences an obligation of the issuer. UCC § 8-102(1)(a).

Protection of citizen, resident, or transient against attack directed against his person or property. Protection of the nation against attacks from abroad and subversion from within. A mortgage, lien, encumbrance, deposit, or pledge for the payment of a debt or the performance of an obligation. In the broad sense, inclusive of "surety." 50 Am J1st Suret § 3.

Security is that which makes the enforcement or promise more certain than the mere personal obligation of the debtor or promisor, whatever may be his possessions or financial standing. It may be a pledge of property, or an additional personal obligation; but it means more than the mere promise of the debtor with property liable to general execution. It is true that the greater the possessions of the promisor, the more certain the enforcement of his promise, and in a sense, the creditor is more secure; but such is not the security known and expressed in the law. *First Nat. Bank v Hollingsworth*, 78 Iowa 575, 43 NW 536.

See **realizing on security.**

security agreement. An agreement which creates or provides for a security interest. UCC § 9105(I)(h).

security deposit. See **security.**

security deed. A term probably confined to the state of Georgia and there meaning a deed conveying the legal title to land as security for the payment of a debt.

Upon default in payment, the holder of the debt reduces it to judgment, and the holder of the legal title to the land makes and places of record a quitclaim conveyance to the debtor, reinvesting him with the legal title. The land may then be levied upon and sold to satisfy the judgment. *Scott v Paisley*, 271 US 632, 633, 70 L Ed 1123, 1124, 46 S Ct 591.

See **deed of trust; mortgage.**

security for costs. A bond, undertaking, or deposit required of a plaintiff to secure the payment of costs in the action or the unpaid costs of a prior action. 20 Am J2d Costs §§ 37 et seq.

security for good behavior. See **security to keep the peace.**

security interest. An interest in personal property or fixtures which secures payment or performance of an obligation. 15 Am J2d Com C § 7. In the broad sense, an interest in security of any form.

security on appeal. See **appeal bond.**

security regulations. Regulations in the interest of preserving the country against subversive activities and of protecting it against attacks from abroad.

security requirements. See **financial responsibility laws; security regulations.**

security to keep the peace. A bond, undertaking, or deposit as security against committing a breach of the peace. 12 Am J2d Breach P §§ 41-51.

Securius expediuntur negotia commissa pluribus, et plus vident oculi quam oculus. Matters which are committed to several persons are executed more surely, because eyes see more than an eye sees.

securus. Safe; secure; sure.

secus. Otherwise; not so.

sed. But; however; yet.

sedato animo. With settled intent.

sed contra. But otherwise. See 3 Bl Comm 417.

se defendendo. In defending himself; in self-defense.

sedente curia. The court sitting; during a session of the court.

sederunt. A session of court.

sedes. (Latin.) Seat.

sedge. See sedge-flats.

sedge-flats. Tracts of land lying below ordinary high water mark, which are covered by every tide, and grow a coarse or long sedge, which cattle will not eat, and which like seaweed, is valuable only for bedding and manure. Church v Meeker, 34 Conn 421, 429.

sedition. A commotion, or the raising of a commotion, in the state, not amounting to an insurrection. Exciting discontent against the government, or resistance to lawful authority. To attempt by word, deed or writing to promote public disorder or induce riot, rebellion, or civil war. State v Shepherd, 177 Mo 205, 76 SW 79. The wilful and knowing utterance, writing, or publication of disloyal, scurrilous, or abusive matter against the United States or a state, or the flag, military forces, or uniform of the Armed Forces, which matter is designed and calculated to bring them into contempt, matter which aggregates, incites, fosters or encourages antagonism, opposition, and hostility to organized government, or matter which obstructs or interferes with recruiting or enlistment services strengthening the Armed Forces. 47 Am J1st Sedit etc § 2.

During the presidency of John Adams, Congress passed a sedition act making it an offense to libel the government, the Congress, or the President, and there were four prosecutions under it, but it was unpopular and was soon repealed. State v Shepherd, 177 Mo 205, 221, 76 SW 79.

sedition agitator. One who attempts by word, deed, or writing to induce riot, rebellion, or civil war. One who is a disturber of the public peace and order, a subverter of just law, and a bad citizen. Wilkes v Shields, 62 Minn 426, 64 NW 921.

sed non allocatur. But it is not allowed.

sedo. (Mexican.) I grant.

sed per curiam. But by the court (it was held).

seduce. To lead astray. Putnam v State, 29 Tex App 454, 16 SW 97. To accomplish a seduction.

See **seduction.**

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seduced. Corrupted; drawn aside from the path of virtue. Seduction accomplished.

See **seduction.**

seduction. The act of leading astray. Being lead astray. In the ordinary legal sense, the act of a man in inducing a woman to surrender her chastity. Morehead v Commonwealth, 194 Ky 592, 240 SW 93. The act of a man in inducing a chaste woman to have unlawful sexual intercourse with him. 47 Am J1st Seduc § 2. The act of persuading or inducing a woman of previous chaste character to depart from the path of virtue by the use of any species of arts, persuasion, or wiles which are calculated to have and do have that effect, and result in her ultimately submitting her person to the sexual embraces of the person accused. 47 Am J1st Seduc § 2.

To seduce a woman is to corrupt, deceive, and draw her aside from the path of virtue which she was pursuing, by such acts and wiles as are calculated to operate upon a virtuous female. State v Eckler, 106 Mo 585, 590.

In some instances, particularly in a case where a wife sues as wronged by the defendant in an alleged seduction of plaintiff's husband, the word "seduction" has reference to the misconduct of a woman toward a man. 27 Am J1st H & W §§ 522 et seq.

sed vide. But see.

see. Noun: The dignity or the jurisdiction of a bishop. Verb: To observe with the eyes. To obtain a mental impression or understanding. Seaboard Air Line R. Co. v Myrick, 91 Fla 918, 109 So 193. To perceive and obtain knowledge by the use of the eyes. Tracey v Standard Acci. Ins. Co. 119 Me 131, 109 A 490, 9 ALR 521.

The word "see" and the word "hear," when used in a negative statement, are often used to express the negation of apprehension or conscious knowledge. A person may hear or see and yet not observe that is, he may not have a conscious knowledge of the object or noise he actually sees or hears, and, ordinarily, when questioned as to the fact, he will say that he did not see or hear. See Seaboard Air Line R. Co. v Myrick, 91 Fla 918, 109 So 193, 195.

seed grain. Grain purchased or saved from a prior crop to plant.

seed grain loans. Loans by the federal government or a state to needy farmers for the purchase of seed grain. William Deering & Co. v Peterson, 75 Minn 118, 120.

seeding cloud. See **cloud seeding.**

seed laws. Statutes designed to protect the public from adulterated or unsuitable seeds and setting up reasonable regulations in furtherance of such purpose. 3 Am J2d Agri § 50.

seed relief. The furnishing of agricultural seeds to persons needing, but without means to obtain, them. 3 Am J2d Agri § 33.

seen. Past participle of see. A word of art for the acceptance of a bill of exchange. Barnet v Smith, 30 NH 256.

seepage. The loss of water from a watercourse or a body of water, natural or artificial, by its slow movement through the ground or wall of the reservoir. 56 Am J1st Wat § 29.

seesaw. Same as **teeter-totter.**

segregation. Separation, as where goods are separated for purposes of identification. An enforced separation of races, particularly the white and colored races, as under statutes and constitutions providing for the separate education of colored and white children. 47 Am J1st Sch § 216.

See **de facto segregation; discrimination.**

segregation of dower. See **assignment of dower.**

seigneur. A lord; a master.

seignior. The dominion and authority of the lord of the manor. A lordship; a manor.

seignior in gross. A lordship which was not attached to any manor.

seine. Noun: A large fish net. Verb: To take fish from a body of water by the use of a net. 35 Am J2d Fish §§ 47, 54.

seing. See **blank seing.**

seipsum absentare. To absent one's self.

seise. See **seize.**

seised. Having seisin. Having been subjected to seizure.

seised in fee. See **in fee.**

seised in his demesne as of fee. Clothed with seisin as owner in fee; seised in fee simple.

seised to uses. Holding title for the use or benefit of another.

See **covenant to stand seised to uses.**

seisi. Same as **seised.**

seisin. The possession of a freehold estate by the owner. 42 Am J1st Prop § 45. The possession of land coupled with the right to possess it and a freehold estate therein, practically the same thing as ownership. *Holt v Ruleau*, 83 Vt 151, 74 A 1005. For the purpose of dower, the force of possession under some title or the right to hold the title, either a seisin in deed or a seisin in law. 25 Am J2d Dow § 26.

A person is said to be "seised" or "seized" of personal property when he has the ownership of it his ownership of it carrying with it the right of possession. *Burdett v Burdett*, 26 Okla 416, 109 P 922.

See **covenant of seisin; livery of seisin.**

seisina facit stipitem. Seisin makes the stock.

seisin by hasp and staple. The investiture of a person of seisin by the feoffee's taking hold of the hasp of the door of the house and then bolting himself in.

seisin in deed. A seisin in fact. An actual corporeal seisin which, existing in the husband, is a subject to which common-law dower or its statutory equivalent attaches. 25 Am J2d Dow § 26.

seisin in fee. See **in fee**.

seisin in law. The right to immediate possession of land under a freehold title. The right to make immediate seisin, which, existing in a husband during coverture, is a subject to which common-law dower or its statutory equivalent attaches. 25 Am J2d Dow § 26.

Although the law passed an inheritance to the heir immediately on the death of his ancestor, the heir thereby acquired only a seisin in law, and this, alone, did not enable him to transmit the inheritance to his heirs. He must have obtained an actual seisin or possession or seisin in fact, which is the kind of seisin to which the maxim refers, as distin-

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guished from seisin in law. Such was the rule at common law under the first canon of descent, generally repudiated in the United States. 23 Am J2d Desc & D § 69.

seize. To grasp; to catch. To take prisoner. To take possession, particularly of land. To make a seizure.

seizin. Same as **seisin**.

seizing in transitu. See **stoppage in transitu**.

seizing of heriots. The taking by the lord of the manor of his heriots upon the death of his tenant in copyhold. See 2 Bl Comm 97.

seizure. The taking of a thing into possession, the manner of taking and whether such taking is actual or constructive depending upon the nature of the thing seized. 36 Am J2d Forf & P § 30. Arresting and taking as a prisoner.

See **search and seizure**.

seizure and capture. The taking of the ships, goods, and effects of the enemy upon the high seas in time of war. 56 Am J1st War § 151.

seizure and confiscation. The taking and using of the property of the enemy in time of war, wherever it may be found and without compensation. 56 Am J1st War § 72.

selecti judices. (Roman law.) Chosen judges, judges chosen by the praetor, of whom those who were to serve were appointed by lot. See 3 Bl Comm 366.

selection of appraiser. See **appointment of appraiser**.

selection of exempt property. The act of a debtor in choosing the property he wishes to retain, as against an execution, where he has more than the number or value of chattels allowed by law as exempt. 31 Am J2d Exemp § 146.

See **designation of homestead**.

selection of grand jurors. The drawing of a list of persons to serve on the grand jury, usually closely regulated by statute. 24 Am J1st Grand J § 18.

selection of guardian. A matter committed largely to the discretion of the appointing court, but subject to a right of nomination by a ward who has reached a certain age, ordinarily that of 14 years, the paramount consideration, however, being the best interests of the ward. 25 Am J1st G & W §§ 26 et seq.

selection of homestead. See **designation of homestead.**

selection of jurors. The preparation of a list of names of persons for jury service; the depositing of names on such list in a jury wheel or box; a drawing from the jury wheel or box of the names of persons to serve as jurors at a certain trial term of court; the drawing from the names of persons summoned as jurors for a trial term of names of persons to serve as jurors in a particular case; and finally the impaneling of a jury in a particular case after examination of the several jurors on voir dire and the exercise of challenges. 31 Am 1 Rev ed Jury § 76.

selection of remedy. See **election of remedies.**

selective adoption. A basic principle that only so much of the English common law should be adopted as is compatible with our views of liberty and sovereignty, or as is adaptable to the peculiar conditions and circumstances of each state or to the wants and necessity of its people, or in harmony with the genius, spirit, and objects of its institution. *Fuchs v Goe*, 62 Wyo 134, 163 P2d 983, 166 ALR 1329.

selective draft. The process, machinery, and agencies in selecting and inducting into military service the persons who are subject to call for such service under a compulsory service act. 36 Am J1st Mil § 24.

selective draft act. See **Selective Service Act.**

selective logging operation. A term of the timber trade having reference to the provision in a contract for the sale and purchase of standing timber which reserves the privilege of designating the timber to be removed by the purchaser and the order of removal. Anno: 79 ALR2d 1243.

selective sales tax. A sales tax confined to a particular commodity or a limited number of commodities, such as taxes upon sales of intoxicating liquors, cigarettes, gasoline, and other petroleum products. 47 Am J1st Sales T § 1.

selective service. A form of compulsory military service. 36 Am J1st Mil § 22.

See **selective draft; Selective Service Act.**

Selective Service Act. A federal statute authorizing a draft for military service, that is, imposing compulsory military service and providing the means for calling men to the service. 50 USC Appx §§ 451 et seq.

selectmen. The members of a town board, especially in the New England states. Municipal officers. 37 Am J1st Mun Corp § 224.

selectus judex. Singular of **selecti judices.**

self. One's own self, as where a note is made payable to "self."

self-abuse. See **masturbation.**

self-crimination. Same as **self-incrimination.**

self-defense. A right founded upon the law of nature but deemed necessary even in organized society to personal safety and security and as not incompatible with the public good. 26 Am J1st Homi § 126. The use of force by a person against another to protect himself from bodily harm or an offensive contact, which he believes will result from conduct apparently intended to cause injury or offensive contact, or which is such as to put him in apprehension thereof. 6 Am J2d Asslt & B § 158. That which the law deems justified as the defense of one's person by such force and in such manner as is reasonably necessary when put under the necessity or apparent necessity of defending oneself without any fault on one's part, in order to protect against the peril of death or serious bodily injury at the hands of another. 26 Am J1st Homi § 125.

self-degradation. Putting oneself in a degrading position. Testimony of a witness not exposing him to any criminal prosecution or rendering him liable to any penalty or forfeiture, yet having a direct tendency to degrade his reputation. 58 Am J1st Witn § 35.

self-destruction. Literally, death by one's own hand or act, whether intentional or accidental. The equivalent of suicide for the purposes of an exception in a life insurance policy. 29A Am J Rev ed Ins § 1145.

As the terms are frequently employed in policies of life insurance, "suicide" and "self-destruction"

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are held to be legally synonymous, and both mean an intended voluntary taking of one's own life. Connecticut Mut. Life Ins. Co. v Akens, 150 US 468, 37 L Ed 1148, 14 S Ct 155.

self-disserving evidence. Evidence which is unfavorable to the party who offers it.

self-employed. Working, but not for an employer. Conducting one's own trade or business as sole proprietor or as a partner.

self-employed retirement plan. A retirement plan of a professional man, proprietor of a business, partner, or other self-employed person whereby he sets aside a specified part of his current earnings for use as a retirement fund in the future, which plan, if qualified under the tax law, permits to a limited extent the deduction of his contributions in determining his net income for tax purposes. Internal Revenue Code § 401(c)(1).

self-employment income. Net earnings from self-employment, subject to certain specific limitations fixed by statute. Internal Revenue Code § 1402(b).

self-employment tax. A tax paid by self-employed persons to finance their coverage under the social security system.

See **self-employment income.**

self-executing forfeiture. The termination of a franchise by the operation of a forfeiture clause in the grant without more. 36 Am J2d Franch § 46.

self-executing provision. A provision of a constitution which is effective without legislation, no action by the legislature being required to put it in operation. 16 Am J2d Const L § 94.

A constitutional provision may be said to be self-executing when it takes immediate effect and ancillary legislation is not necessary to the enjoyment of the right given, or the enforcement of the duty imposed. In short, if a constitutional provision is complete in itself, it executes itself. Lanigan v Gallup, 17 NM 627, 131 P 627.

self-executing treaty. A treaty with a foreign nation that operates of itself without the aid of legislation. 52 Am J1st Treat § 2.

self-help. A controverted doctrine in reference to escaping from the custody of an officer which is unlawful. 27 Am J2d Escape §§ 7, 12.

See **self-preservation**.

self-incrimination. The giving of testimony, the furnishing of evidence, or a demonstration by act, by which a witness incriminates himself because it is such or tends to be such as will convict him of a crime. 58 Am J1st Witn §§ 57 et seq.

See **privilege against self-incrimination**.

self-inflicted. Upon oneself by oneself.

Under a compensation statute which excludes only those injuries which are purposely self-inflicted, it is not enough that the employee merely disregards some rule, regulation, or order of the master, since such conduct may constitute nothing more than ordinary negligence on the part of the employee, and mere negligence does not destroy the right to compensation. But an accident resulting from a disobedience of express orders may be one intentionally produced within the meaning of the statute.

Anno: 23 ALR 1172.

self-inflicted injury. For definition particularly in reference to use of intoxicants and drugs within the meaning of disability provision of insurance policy, see Anno: 166 ALR 834.

self-insurance. An employer engaging to make compensation payments directly to the injured employee in lieu of carrying insurance, he being required, as a condition of dispensing with an insurance carrier to furnish satisfactory proof of financial ability, file a bond, or make a deposit of securities as a guaranty of compensating his injured employees. 58 Am J1st Workm Comp § 546.

See **reciprocal insurance**.

self-insurer. An employer under workmen's compensation who is permitted under the conditions respecting self-insurance, to dispense with an insurance carrier. *Sheehan Co. v Shuler*, 265 US 371, 373, note, 68 L Ed 1061, 1062, note, 44 S Ct 548.

See **self-insurance**.

self-murder. An expression equivalent to suicide. *Connecticut Mut. Life Ins. Co. v Groom*, 86 Pa 92.

self-pollution. See **masturbation**.

self-preservation. The instinct of protecting one's self against danger. The desire to live; the instinct which generally prompts men to acts of care and caution when approaching or in the presence of danger. *Wabash R. Co. v De Tar* (CA8 Iowa) 141 F 932. The instinct from which the presumption of due care for one's own protection arises. 38 Am J1st Negl § 337.

self-proving instrument. A written instrument admissible in evidence without preliminary proof of genuineness. 29 Am J2d Ev § 853.

self-regarding. See **self-disserving evidence; self-serving declaration**.

self-serving declaration. A statement, made out of court, favorable to the interest of the declarant. 29 Am J2d Ev § 621.

The vital objection to the admission of this kind of evidence is its hearsay character; the phrase "self-serving" does not establish an independent ground of objection. *Wachovia Bank & Trust Co. v Wilder*, 255 NC 114, 120 SE2d 404.

sell. To make a sale.

See **sale**.

sell and dispose of. Depending upon the context in which it appears, a term which may mean disposal by sale only or disposal by sale, barter, or exchange. *Killmer Paint & Glass Co. v Davenport-Bethell Co.* 136 Okla 252, 277 P 653, 63 ALR 997.

seller. One who sells property of his own. The vendor in a land contract or the party to a contract of sale of personal property who is making a sale of his property. Inclusive in the broader sense of the term of one who makes a sale for another, such as a broker. Anno: 50 ALR2d 1228 (involving civil liability under the Securities Exchange Act).

seller's lien. See **vendor's lien.**

seller's option. The option of a seller of a commodity upon an exchange to deliver the same at any time within a month. *Pixley v Boynton*, 79 Ill 351. The option of the vendor in a contract of sale of personalty to accept money or something else of equivalent value if offered to him. *Lee Lumber Co. v Hotard*, 122 La 850, 48 So 286.

See **put.**

seller's risk. The risk of loss of the goods pending delivery thereof or the passing of title thereto to the buyer. 46 Am J1st Sales §§ 279, 280.

seller's talk. A seller's remarks respecting the quality of the goods offered for sale. 46 Am J1st Sales § 89. Statements which, although exaggerated as to

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value, quality, etc., are such as to be expected of a seller under universal commercial practices and reasonably to be understood as expressing no more than the opinion of the seller. 37 Am J2d Fraud § 54; 46 Am J1st Sales § 326; 55 Am J1st V & P § 67.

selling against the box. See **sale against the box.**

selling short. See **short sale.**

selling titles. See **bracery.**

semaphore. A system of signaling by the use of flags. An arrangement of lights, flags, and wooden, metal, or plastic arms, supported by a standard, near a railroad track, operated for the giving of signals to trains. *Wagner v Chicago & A. R. Co.* 265 111 245, 106 NE 809, affd 239 US 452, 60 L Ed 379, 36 S Ct 135.

semb. An abbreviation of **semble.**

semble. It seems; a dictum holds.

See **come semble; et semble.**

semblement. Similarly.

Semel civic semper civis. Once a citizen, always a citizen.

Semel malus semper praesumitur esse malus in eodem genere. Once bad, a person is always presumed to be bad in the same way.

semestria. (Civil law.) Collected decisions of the Roman emperors.

semicolon. A punctuation mark.

The comma and the semicolon are both used for the same purpose, namely, to divide sentences and parts of sentences, the only difference being that the semicolon makes the division more pronounced than the comma; but at the last it is the sense of the words, taken together, that dictates where the punctuation marks are to be placed, and what they shall be. *Holmes v Phenix Ins. Co.* (CA8 Mo) 98 F 240.

semidetached houses. Houses with separate entrances and separate approaches or sidewalks but having a wall in common so as to be in violation of a covenant restricting the premises to detached dwelling houses. *Liedman v Hall*, 110 Misc 365, 180 NYS 514.

semi-matrimonium. (Civil law.) Half-marriage; concubinage.

seminary. An educational institution, particularly one for the education of ministers of the gospel. *Church v Bullock*, 104 Tex 1, 109 SW 115. A private school, especially for young women.

Seminoles. See **five civilized tribes**.

semiplena probatio. In translation, **half-proof**.

semitontine policy. An endowment policy of life insurance.

See **tontine policy**.

semi-trailer. A vehicle of the trailer type so used in conjunction with a motor vehicle that some part of its own weight and that of its load rests upon or is carried by another vehicle. *Maryland Casualty Co. v Cross* (CA5 Tex) 112 F2d 58.

semper. Always; at all times.

Semper in dubiis benigniora praeferenda sunt. (Civil law.) In doubtful cases more liberal constructions are always to be preferred.

Semper in dubiis id agendum est, ut quam tutissimo loco res sit bona fide contracta, nisi quum aperte contra leges scriptum est. (Civil law.) In doubtful matters it should always be arranged so that a bona fide contract is in the safest situation, excepting when the writing is plainly contrary to law.

Semper in obscuris quod minimum est sequimur. In obscure matters we always following the construction which is least obscure. *Sturges v Crowninshield* (US) 4 Wheat 122, 150, 4 L Ed 529, 537.

Semper in stipulationibus et in caeteris contractibus id sequimur quod actum est. (Civil law.) In stipulations and in other contracts, we always follow that which has been agreed upon.

Semper ita fiat relatio ut valeat dispositio. A reference should always be made so that the disposition will be valid.

semper necessitas probandi incumbit ei qui agit. The burden of proof always lies upon him who alleges.

semper paratus. Always prepared; always ready.

Semper praesumitur pro legitimatione puerorum, et filiatio non potest probari. A presumption always exists in favor of the legitimacy of children, because filiation cannot be proved.

Semper praesumitur pro matrimonio. A presumption always exists in favor of matrimony; that is, in favor of the validity of the marriage. See 35 Am J1st Mar § 303.

Semper praesumitur pro negante. A presumption always exists in favor of a person who denies; that is, a defendant.

Semper praesumitur pro sententia. A presumption always exists in favor of a sentence.

Semper, qui non prohibet pro se intervenire, mandare creditur. One who does not forbid another to act in his stead is always deemed to have authorized him to do so.

The maxim is one of equity applicable to the ratification by a principal of the unauthorized act of an agent by silence or acquiescence. See Philadelphia, W. & B. R. Co. v Cowell, 28 Pa 329.

Semper sexus masculinus etiam foeminum continet. (Civil law.) The masculine sex of gender always includes the feminine also.

Semper specialia generalibus insunt. (Civil law.) Special expressions or provisions are always included in general ones.

Semper ubique et ab omnibus. At all times, everywhere, and by everyone.

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"Considerable latitude must be allowed for differences of view as well as for possible peculiar conditions which this court can know but imperfectly, if at all. Otherwise, a constitution, instead of embodying only relatively fundamental rules of right, as generally understood by all English-speaking communities, would become the partisan of a particular set of ethical or economical opinions, which by no means are held semper ubique et ab omnibus." Otis v Parker, 187 US 606, 47 L Ed 323, 23 S Ct 168.

Senate. One of the two bodies of the Congress of the United States, composed of two Senators from each state. United States Constitution, Article 1, § 3, Clause 1. One of the houses of a state legislature. 49 Am J1st States § 28.

senator. A member of the senate; a member of the king's council.

Senatores sunt partes corporis regis. The senators are a part of the body of the king.

senatus consulta. Acts of the Roman senate. 1 Bl Comm 86.

senatus consultum. A public act of the Roman senate. See 1 Bl Comm 86.

senatus consultum ultimae necessitatis. The act of the senate in particular emergency. See 1 Bl Comm 136.

senatus decreta. The private acts of the Roman senate. See 1 Bl Comm 86.

senescallus. Same as **seneschal**.

seneschal. The steward of a manor.

senile dementia. A weakened condition of the mind due to old age. 57 Am J1st Wills § 100. A form of insanity marked by weakness indicating a mental breaking down in advance of bodily decay. Hiatt v Shull, 36 W Va 563, 565, 571, 15 SE 146.

senility. Old age. The mental state or condition of a very old person. The weakness attendant upon old age, whether of mind or body. *Equitable Life Assur; Soc. v Garrett*, 25 Ala App 446, 148 So 338.

senior. Higher in rank; prior or superior in force or effect; longer in service; older. One of a senior class.

When the word is added to a man's name, it indicates merely that he is the father of a man of the same name; it is not a part of the legal name, but is simply *descriptio personae*. *Ferguson v Dillon*, 3 Mo 59, 60.

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

senior class. The most advanced class in high school or undergraduate college.

senior high. See **high school**.

seniority. The principle in labor relations that length of employment determines the order of layoffs, rehiring, and advancements. Anno: 142 ALR 1055.

senior mortgage. A mortgage, the lien of which is entitled to or priority over that of a junior mortgage or other incumbrance.

senior widow. A widow claiming dower in lands of her deceased husband who was the ancestor of a decedent whose surviving spouse is a dower claimant in respect of the same lands. 25 Am J2d Dow § 87.

sensu. See **lato sensu**.

sensu et re ipsa. See **in sensu et re ipsa**.

sensu honesto. By or according to its fair or proper sense or meaning.

Sensus verborum est anima legis. The meaning of the words is the spirit of the law.

Sensus verborum est duplex, mitis et asper, et verba semper accipienda sunt in mitiore sensu. The meaning of words is twofold, mild, and harsh, and words should always be taken in their milder sense.

Sensus verborum ex causa dicendi accipiendus est, et sermones semper accipiendi sunt secundum subjectam materiam. The meaning of words is to be taken from the occasion of their utterance, and conversation should always be understood according to their subject matter.

sentence. A judgment in a criminal case denoting the action of the court in formally declaring to the accused the legal consequences of the guilt which he has confessed or of which he has been convicted. *State v Fedder*, 1 Utah 2d 117, 262 P2d 753.

See **punishment**.

sentence of nullity. A judicial declaration of the nullity of a marriage.

sententia. (Civil law.) An opinion; a decision; a judgment; the meaning or sense of a word or sentence.

Sententia a non iudice lata nemini debet nocere. A sentence or judgment rendered by a person who is not a judge ought not to harm anyone.

Sententia contra matrimonium nunquam transit in rem judicatam. A sentence or judgment which is in contravention of marriage never becomes a thing adjudged.

Sententia facit jus, et legis interpretatio legis vim obtinet. A judgment makes law, because the interpretation of the law has the force of law.

Sententia facit jus, et res judicata pro veritate accipitur. A judgment makes law, because a thing adjudged is received as the truth.

Sententia interlocutoria revocari potest, definitiva non potest. An interlocutory judgment can be recalled or revoked, but a final one cannot.

Sententia non fertur de rebus non liquidis. A judgment is not rendered upon matters which are not clear.

sentimental value. The value of an article upon considerations other than the true value or market value. 22 Am J2d Damg §§ 136, 150.

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separable. Severable; capable of being separated or divided into component parts.

separable contract. See **divisible contract; severability of contract.**

separable controversy. A term of significance in reference to the removal of an action or suit from state to federal court. A cause of action, included in an action or suit in which more than one cause of action is asserted, which can be disentangled and separated from the other cause or causes of action and fully adjudicated separately. Anno: 110 ALR 189; 19 ALR2d 748. Necessitating a suit capable of separation into parts, so that in one of the parts a controversy may be presenting by one party and fully decided and determined without the presence of the other parties on the same side with him before the removal of the cause. Anno: 110 ALR 189.

A separable controversy is no longer an adequate ground for removal of a case from a state to a federal court unless it also constitutes a separate and independent claim or cause of action. The concept of "separate cause of action" restricts removal more than the concept of "separable controversy." In a suit covering multiple parties or issues based on a single claim there may be only one cause of action and yet be separable controversies. *American Fire & Casualty Co. v Finn*, 341 US 6, 95 L Ed 702, 71 S Ct 534, 19 ALR2d 738.

separali. See **in separali.**

separate. Verb: To divide; to disunite. To place in different places; to keep apart.

separate. Adjective: Divided; distributed. *Merrill v Pepperdine*, 9 Ind App 416, 36 NE 921. Disconnected; independent; not a part of something else; distinct.

See **joint.**

separate acknowledgment. An acknowledgment by a married woman apart from the acknowledgment by her husband. 1 Am J2d Ack § 2.

separate action. An action brought by a single plaintiff, as distinguished from an action in which two or more persons join as plaintiffs.

separate and apart. A characterization of a status in the relations between husband and wife in which there has been, not merely a discontinuance of sexual relations, but a living apart for such a period and in such a manner that the fact that they are not living together is open to observation. Anno: 51 ALR 768; 97 ALR 988; 111 ALR 871.

separate and independent cause of action. See **separable controversy.**

separate business of wife. A business carried on by a married woman on her sole account. 27 Am J1st H & W §§ 463 et seq.

separate but equal. A doctrine, since repudiated, which justifies the segregation of races, particularly the white and black races in the public schools, where the accommodations and facilities provided are equal in service and comfort. Anno: 38 ALR2d 1188; 94 L Ed 1135; 98 L Ed 882.

separate cause of action. See **separate counts.**

separate controversy. See **separable controversy.**

separate counts. Two or more charges of distinct offenses in an indictment or information, each count being in contemplation of the law a separate indictment. 27 Am J1st Indict § 129. Divisions of a complaint, petition, bill, or declaration wherein the plaintiff pleads a single cause of action in more than one count, that is, in as many ways as he sees fit, in order to meet any possible phase of the evidence; divisions of a complaint, petition, bill, or declaration wherein the plaintiff states two or more causes of action, each being separately set forth. 41 Am J1st Pl §§ 106 et seq.

Under the rule of pleading that separate counts are required for separate and distinct causes of action, separate and distinct causes of action must be such as are both separable from each other, and separable by some distinct line of demarcation. *Chaft Refrigerating Machine Co. v Quinnipiac Brewing Co.* 63 Conn 551, 29 A 76.

separate defense. A defense in an action against two or more persons asserted by only one of the defendants. 41 Am J1st Pl § 119.

separate domicil. The domicil of a wife apart from that of her husband, being chosen by her, under circumstances which render it appropriate, necessary, or proper for her to have a separate domicil. 25 Am J2d Dom § 53.

separate estate of wife. A property owned, held and controlled by a married woman free from the dominion or control by the husband, as provided in equity or by Married Woman's Acts. 26 Am J1st H & W §§ 34 et seq. A property placed by law in the ownership, management, and control of a married woman. *Cross v Benson*, 68 Kan 495, 75 P 558.

separate examination. An examination of a married woman in taking her acknowledgment of her signature, made privately and apart from her husband, with respect to whether her signature was affixed voluntarily and without fear or compulsion of her husband. 1 Am J2d Ack § 2.

separate-general verdict. A finding by the jury upon any of the issues in favor of the plaintiff or the defendant.

The meaning of the expression is that the verdict is separate as to the particular issue as distinguished from any other issue in the case, and that it is general as to the particular issue. It is only applied in cases where there is more than one issue. It is not to be confused with a special verdict, which is a finding of facts by the jury. *Witty v C. O. & S. W. Railroad Co.* 83 Ky 21, 29.

separate maintenance. Provision made by a husband for the support of his wife living apart from him. The condition or status of a married woman who is living apart from her husband and is being supported by him, but without being divorced from him. An action which in some jurisdictions may be maintained by a married woman who is compelled through her husband's fault to live apart from him, by which action she is allowed separate maintenance or permanent alimony without being forced to seek a divorce. 27 Am J1st H & W §§ 401 et seq.

separate offenses. Criminal offenses so distinct that the evidence necessary to establish one differs from the evidence necessary to establish the other. 21 Am J2d Crim L § 8.

separate opinion. An opinion by one of the judges or justices of a court consisting of more than one judge or justice which is not approved by a majority of the members of the court, whether it be a concurring or a dissenting opinion. 20 Am J2d Cts § 71.

separate property. An estate in a community property jurisdiction held, both in its use and in its title, for the exclusive benefit of either the husband or the wife. 15 Am J2d Community Prop § 3.

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See **separate estate of wife.**

separate trials. Separate trials of issues appearing in the same action upon a severance of the issues. 53 Am J1st Trial § 53. Separate trials of joint defend ants in a criminal prosecution. 21 Am J2d Crim L § 127.

separatim. Separately; severally; distinctly.

separation. The act by which something is separated. The condition or status of being separated, particularly that of husband and wife. A cessation of cohabitation of husband and wife by mutual agreement. Anno: 111 ALR 869. As a ground for divorce:-a physical separation of husband and wife with the intent to sever the marital status, at least an intent not to resume marital relations, some times, in the terms of the statutory requirement, beyond any reasonable expectation of reconciliation. 24 Am J2d Div & S § 148.

The word has been used as synonymous with the word "divorce" with both legislative and judicial sanction, and when so used is applied to both a mere divorce a mensa et thoro as well as to a divorce a vinculo matrimonii; this is, it applies to all kinds of judicial separation of man and wife. *Butler v Washington*, 45 La Ann 279, 814, 818, 12 So 356.

See **judicial separation.**

separation agreement. An agreement made between husband and wife in prospect of the breaking up of the marital union, stipulating that it shall be lawful for the parties to live separate and apart until, by mutual agreement, the separation is ended, customarily containing a provision for support of the wife and children, if there be children of the union, and sometimes a stipulation that neither party will interfere with the other, such an agreement having a proper function even though the parties do not own property of consequence. 24 Am J2d Div & S § 883.

separation from service. The release of a member of the armed forces from active service, sometimes subject to obligations to the branch of which he was a member. 56 Am J1st Vet & V A § 4.

separation of grades. The elimination of grade crossings by providing overhead and underground crossings.

separation of jury. The separation of one or more jurors from their fellow jurors. The dispersal of a jury, the jurors going to their several homes or about their businesses or pleasures. 53 Am J1st Trial § 861.

The term implies the failure of the officer in charge of the jury to keep them together after they have retired for deliberation. Such separation is in some states in itself ground for a new trial. In other states it is ground for a new trial unless it is affirmatively established that no prejudice resulted there from. *People v Adams*, 143 Cal 208, 76 P 954.

separation of powers. The separation of executive, legislative, and judicial powers, a fundamental characteristic of the United States Government and the state governments as well. 16 Am J2d Const L § 210.

See **division of powers**.

separation of spouses. See **divorce; judicial separation; separate maintenance; separation**.

separation wage. Another term for dismissal compensation.

separatists. A religious sect which seceded from the Church of England.

separator. See **threshing machine**.

septicemia. Blood poisoning.

septic tank. A tank placed underground as a sanitary disposal system, that is, for the treatment and disposal of sewage. *Sanitation Dist. No. 1 v Campbell (Ky)* 249 SW2d 767.

sepulcher (sep'ul-ker). A burial place; a grave; a tomb. A place for the keeping of religious relics.

sepulture. Burial. Interment.

See **burial**.

seq. See **et seq.**

Sequamur vestigia patrum nostrorum. Let us follow in the footsteps of our fathers.

sequela. A suit; a process; a prosecution.

sequela curiae. Suit of court.

sequester. To seize property under a writ of sequestration. (Civil law.) To renounce or relinquish a right or claim; to disclaim.

See **sequestration**.

sequestrari facias. A writ of execution against a beneficed rector, whereunder the bishop was ordered to withhold the profits and income of the benefice for the plaintiff.

sequestration. An equitable writ or process and the remedy thereunder by which property is taken into the possession of the court in order to assure obedience to a decree. 47 Am J1st Seques § 2. Equitable relief in aid of a party to an action of ejectment by a seizure of the rents and profits for preservation during the pendency of the action. 25 Am J2d Eject § 78. The seizure of the husband's property as a remedy in a matrimonial action in order to prevent a delinquent husband or father from escaping his liability for alimony or support by leaving the state. *Smith v Smith*, 255 App Div 652, 9 NYS2d 188. A doctrine of equity which originated in the doctrine of equitable election, and under which, when the widow elects to take against the will of her husband, the general rule is that the property given to her by such instrument will be sequestered for the benefit of those whose gifts under the will are disturbed by the action of the widow in electing to take against it. 57 Am J1st Wills § 1552.

sequestration receivership. A receivership established in a sequestration proceeding against a corporation. 45 Am J1st Rec § 3.

sequestrator. A party at whose instance a sequestration proceeding is prosecuted in a court of equity.

Sequi debet potentia justitiam, non praecedere. Power ought to follow justice, not to precede it.

sequitur. See **et sequitur.**

serenade. See **charivari.**

serf. A person who, under the feudal system, was bound to the soil of his birth-place to perform menial service for the lord of the manor.

sergeant. A noncommissioned officer of the Army, ranking immediately above a corporal and immediately below a staff sergeant.

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sergeant-at-arms. An officer of a legislative body or society who is appointed to enforce its rules and orders of procedure and decorum for the conduct of a meeting.

sergeant first class. A noncommissioned officer of the Army, ranking immediately above staff sergeant and immediately below master sergeant.

sergeant major. A noncommissioned officer of the Army, holding the highest rank of any noncommissioned officer.

serial bonds. Bonds issued by a public body payable at different times. 43 Am J1st Pub Sec § 8. Bonds of a corporation or municipality which are issued in a series of which different parts are redeemable at different specified dates. *Fales v Multnomah County*, 119 Or 127, 248 P 151.

serial building and loan association. A building and loan association whose stock is divided into series, each series being issued separately. *Cook v Equitable Bldg. & Loan Asso.* 104 Ga 814, 821, 30 SE 911.

serial number. The number placed upon a bond in issuance of the instrument. An identifying number placed upon the vehicle by the manufacturer of an automobile. An identifying number given to a person in the armed forces.

seriatim. Successively; in succession; severally.

seriaunt. Same as **serjeant.**

series of notes. Several promissory notes of different dates but given in a series of transactions over a period of time between the same parties.

serious. Important; weighty; momentous and not trifling. *Lawlor v People*, 74 Ill 228, 231.

serious ailment. A grave, if not dangerous, affliction of the body. *French v Fidelity & Casualty Co.* 135 Wis 259, 115 NW 869.

serious and wilful misconduct. Deliberate misconduct, something more than mere negligence or even gross or culpable negligence. Conduct to which moral blame attaches the intentional doing of something either with the knowledge that it is likely to result in serious injury or with a wanton and reckless disregard of its probable consequences. 58 Am J1st Workm Comp § 200.

serious bodily harm. See **serious bodily injury.**

serious bodily injury. An injury which gives rise to apprehension; an injury which is attended with danger. (Webster's Dictionary.) *George v State*, 21 Tex App 315, 317.

The word "serious," when used to define the degree of bodily harm or injury apprehended, requires or implies as high a degree as the word "great," and the latter word means high in degree, as contradistinguished from trifling. *Lawlor v People*, 74 Ill 228, 231.

serious illness. A grave, important, weighty trouble. An illness attended by danger, giving rise to apprehension. *Eminent Household of Columbian Woodmen v Prater*, 24 Okla 214, 103 P 558. An illness which permanently or materially impairs, or is likely permanently or materially to impair, the health or constitution. Anno: 153 ALR 717; 29 Am J Rev ed Ins § 745.

serious injury. See **serious bodily injury.**

serious misconduct. Improper conduct of a grave and serious nature. *Gonier v Chase Co.* 97 Conn 46, 115 A 677, 19 ALR 83, 88 (term appearing in workmen's compensation statutes).

As the term is used in workmen's compensation acts, Bevan in his work on *Workmen's Compensation* says, page 401: "To constitute serious misconduct, it is probable that the legislature intended to signify conduct that an average workman, in being guilty of, would either know, or ought to know, if he turned his mind to consider the matter, to be conduct likely to jeopardize his own and his fellow workmen's safety." *Horst Co. v Industrial Acci. Com.* 184 Cal 180, 193 P 105, 16 ALR 611, 617.

See **serious and wilful misconduct.**

serjeant. British for sergeant. The title of the highest rank attainable in England in the profession of the common law.

See **ancient serjeant; common serjeant; King's premier serjeant; premier serjeant.**

serjeant-at-law. Same as **serjeant.**

Serjeants' Inn. The name of one of the English inns of court of which the serjeants-at-law were members.

serjeanty. See **grand serjeanty; petit sergeanty.**

Sermo index animi. Discourse is the index of the mind.

Sermones semper accipiendi sunt secundum subjectam materiam, et conditionem personarum. Conversations are always to be understood according to the subject matter and the condition of the person.

serological blood test. A blood test to determine type or group, of a special value in cases of disputed paternity because, although it cannot indicate with precision that a particular person is the father of the child whose paternity is in issue, in many instances it can establish that an alleged father could not have been the sire. Anno: 46 ALR2d 1003, § 1(b).

servage. The feudal service of furnishing one or more workmen for the lord of the manor.

Servanda est consuetudo loci ubi causa agitur. The custom or usage of the place where the action is brought should be observed.

The maxim is one of the civil law. *Decouche v Savetier*, 3 Johnson's Ch (Md) 190.

servant. In older usage, a menial or domestic. In modern times, an employee performing any particular sort of service, at least service which is directed so as not to require the exercise of discretion or executive ability. 35 Am J1st M & S § 2. A person employed to perform personal service for another in his affairs and who, in respect of his physical movements in the performance of the service, is subject to the other's control or right to control. *American Nat. Co. v Denke*, 128 Tex 229, 95 SW2d 370, 107 ALR 409. Definitely, one who is not an independent contractor. 27 Am J1st Ind Contr § 2. As a person whose claim is entitled to priority under the Bankruptcy Act: one who served the bankrupt in a more or less subordinate position. *Re Ko-Ed Tavern (CA3 NJ)* 129 F2d 806, 142 ALR 357.

Within the meaning of embezzlement statutes, a servant is any person who is in the employ of another and who, in the discharge of his duties, is subject to the immediate control and direction of

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his employer. Private house servants or domestics, day laborers engaged to carry vegetables to market for sale and bring back the proceeds, and solicitors engaged for a salary to collect debts have been held to be such servants. 26 Am J2d Embez § 25.

For meaning of the term "servant" as it appears in a designation of a beneficiary under a will, see Anno: 38 ALR 786.

servants' pay. The pay, rations, and clothing of a private soldier, or money in lieu thereof, which are allowed to an army officer for each private servant which he is authorized to keep. 36 Am J1st Mil § 79.

servato juris ordine. In keeping with the order of the court. See 4 Bl Comm 179.

serve. To make or effect a service of the process of a court; as, to serve a subpoena or a summons. To perform a duty. To be a servant.

servi. (Roman law.) Persons who were employed in husbandry and manufactures. *Ex parte Meason (Pa)* 5 Binney 167, 180.

service. Work performed. Employment by another. A contraction of military service. A breeding.

A person is in the "service" of another when he is so occupied that during the continuance of the relation he is bound to submit his will to the direction and control of that other in the prosecution of that occupation. *Cameron v State Theatre Co.* 256 Mass 466, 467, 152 NE 880, 881.

The term as used in a provision of the Social Security Act defining employment as any service performed by an employee for his employer, means, not only work actually done, but the entire employer-employee relationship for which compensation is paid to the employee by the employer. *Social Secur. Board v Nierotko*, 327 US 358, 90 L Ed 718, 66 S Ct 637, 162 ALR 1445.

As used in the statutes and otherwise in connection with military and naval affairs, the word is an ambiguous one which is used in many senses. When used coupled with the word "active," referring to times of war or national emergency, it has a limited and immediately understandable meaning, but it may be used in a larger and more comprehensive sense, as where a statute refers to a severance of connection with "service" of an officer connected with a particular branch or department of the naval establishment, in which case the naval service as a whole may be signified. 36 Am J1st Mil § 20.

See **continuous service; military service; public service; services of wife.**

service association. An association the primary purpose, or one of the primary purposes, of which is to render services of special benefit to the members, such as an automobile association, an automobile dealers' association, an apple growers' association, etc. An association for the purpose of community improvement.

See **service organization**.

service by mail. Service of process or notice by mailing copy to the party to be served at his last known address where actual personal service cannot be obtained. 42 Am J1st Proc § 60.

service by publication. Service of process by publishing it in a newspaper in compliance with terms and conditions prescribed by statute. 42 Am J1st Proc §§ 89 et seq.

service charge. A percentage added to the bill for meal or drinks in hotel or restaurant.

Service charges collected by proprietors of hotels and restaurants and distributed among their waiters and other employees in accordance with a prearranged plan, or at the discretion of the employers, are wages subject to unemployment tax acts to the extent that an employer is required to pay unemployment taxes or contribute to such payment. Anno: 83 ALR2d 1024.

service club. See **service association**.

service company. A company performing service in maintaining an instrumentality, such as an elevator, in condition for good and safe operation, under contract with the owner or occupant of the premises.

See **public service corporation; service organization**.

service contract. A contract whereby one of the parties undertakes to perform services for the other.

service corporation. See **public service corporation**.

service del roy. See **essoin service del roy**.

service fee. The fee to which a sheriff, constable, or other officer of the law is entitled for service notice, summons, or other process or paper. The sum charged for the service of a male breeding animal. 4 Am J2d Am § 78.

service in aumone. A gift of lands for church services to be performed for the welfare of the soul of the donor.

service letter. A letter of recommendation or character reference given by an employer to his employee upon the termination of the employment. 35 Am J1st M & S § 39.

Service Letter Act. A statute requiring employers generally or employers of particular classes to give employees upon termination of their employment letters setting forth the nature and duration of the services rendered and the cause of leaving. 31 Am J Rev ed Lab § 758.

service lien. A lien for work and labor performed. A common-law or statutory lien for service by a male breeding animal, sometimes on the female served, sometimes on both the female and the resulting foal. 4 Am J2d Am § 78.

servicemen. Persons in, or who have been in, the armed forces. The terminology for certain employees of a business or industry, such as those who repair machines and appliances in the possession of customers.

Servicemen's Indemnity Act. A federal statute, enacted in 1951, under which all men in the armed forces were provided protection by life insurance without payment of premiums on the part of the servicemen. 29A Am J Rev ed Ins § 1970.

servicemen's insurance. Insurance provided by the government and issued to persons in the armed services. 29A Am J Rev ed Ins § 1970.

service of execution. Every act and proceeding necessary to be taken by the sheriff or execution officer to make the money required for satisfaction of the judgment and execution, including a sale of the property where necessary. *Fallows v Continental & C. Trust & Sav. Bank*, 235 US 300, 59 L Ed 238, 35 S Ct 29.

service of notice. The communication of the contents of a notice to the person entitled to receive it or intended to receive it in such manner that, as provided by law, he is charged with having received it,

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whether by mailing, posting, the delivery of a copy, etc. 39 Am J1st Notice §§ 27 et seq.

service of pleading. A common requirement under modern rules of pleading and practice, consisting in the delivery of a true copy to the adverse party or his attorney of record. 41 Am J1st Pl § 317.

service of process. The delivery or other communication of a summons, writ, or other process to the opposite party, or other person entitled to receive it, in such manner that, as provided by law, he is charged with having received it, whether by reading the paper to him, delivering a true copy to him, mailing a copy to him, leaving a copy at his place or residence, or publication. 42 Am J1st Proc § 23.

As applied to process of courts, the word ordinarily implies something in the nature of an act or proceeding adverse to the party served, or of a notice to him. *United States v McMahon*, 164 US 81, 87, 41 L Ed 357, 360, 17 S Ct 28.

See **service by mail; service by publication; substituted service.**

service of summons. See **service of process.**

service of the ship. Acts done by a seaman for the benefit of the ship or in the actual performance of his duty, even including some acts on shore leave. 48 Am J1st Ship § 169. Working in the course of employment as a seaman, not in the course of a private pursuit. *Barlow v Pan Atlantic S.S. Corp.* (CA2 NY) 101 F2d 697.

service organization. An agency for the purpose of procuring help, employment, or engagement in service for a fee, sometimes temporary or emergency employment. *State ex rel. Weasmer v Manpower of Omaha, Inc.* 161 Neb 387, 73 NW2d 692.

See **service association.**

service pipe. A pipe running from the main of a public utility, usually in the street or highway, to abutting premises, for use in supplying water or gas to the premises.

service real. A term of the civil law meaning a service servitude which one estate owes to another, or the right of doing something or having privilege in one man's estate for the advantage and convenience of the owner of another estate. *Karmuller v Krotz*, 18 Iowa 352, 357.

The estate unto which the service is due is called "praedium dominans," or the ruling estate; and the other estate, which suffers or yields the service, is called "praedium serviens," or an estate subject to a privilege or service. *Morgan v Mason*, 20 Ohio 401.

services. A term applied to those acts or "renders," as they were called, which were due to the lords from their tenants under the old system of feudal tenure. See 2 Bl Comm 60.

See **service.**

services and labor. As the term appears in Married Woman's Acts:-pertaining to manual efforts as distinguished from business ventures carried on by the wife in her own name. 27 Am J1st H & W § 466.

services of wife. A term of art.

In connection with the right of a husband to maintain an action for the loss of his wife's "services," the word has come down to us from times in which the action originated, and it fails to express to the common mind the exact legal idea intended by it. The word, as so used, implies whatever of comfort, aid, assistance, and society the wife would be expected to render to or bestow upon her husband, under the circumstances and in the condition in which they may be placed, whatever those may be. (Cooley on Torts.) See *Womach v St. Joseph*, 201 Mo 467, 100 SW 443.

See **services and labor**.

service station. See **gasoline filling station**.

service wire. A line of wire supplying electric current to a household, place of business, or industry. Anno: 40 ALR2d 1322, § 8.

servidumbre. A word found in Spanish-American grants, signifying a "servitude." *Mulford v Le Franc*, 26 Cal 88, 106.

serviens ad legem. A sergeant-at-law. Same as **serjeant**.

serviens narrator. A sergeant-at-law. Same as **serjeant**.

servientes ad legem. Plural of **serviens ad legem**.

servient estate. Same as **servient premises**.

servientis ad legem. Of a serjeant-at-law. 1 Bl Comm 24.

servient premises. Land owned by one person which is subject to an easement in another. A tenement or estate upon which an easement in the form of a charge or burden is placed for the benefit of a dominant estate or tenement.

See **easement**.

servient tenement. Same as **servient premises**.

Servile est expilationis crimen; sola innocentia libera. The crime of plundering or robbing is servile; innocence alone is free.

servile labor. Menial labor. *State v Stout*, 43 Okla Crim 19, 276 P 795. Labor requiring physical rather than mental effort. *State v Smith*, 19 Okla Crim 184, 198 P 879. Secular, everyday business.

"A sheriff may race his horse after a fugitive debtor, and find the exercise servile enough; and, I think, common sense would say it was also secular." Per Brainard, J., in *Gladwin v Lewis*, 6 Conn 49.

servile tenure. See **furca et flagellum**.

Servi nascuntur. They are born slaves. 1 Bl Comm 424.

Servitia personalia sequuntur personam. Personal services follow the person.

servitia servientium et stipendia famulorum. The services of servants and the wages of slaves. See 2 Bl Comm 511.

servitio regis. See **ession de servitio regis.**

servitium. Service; feudal service; service rendered by the tenant to the lord of the manor under the feudal system.

servitium foedale et praediale. A personal service which was due on account of land held in fee.

servitium forinsecum. Service which was due the king and which was foreign or aside from that due the lord of the manor.

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Servitium in lege Angliae, regulariter accipitur pro servitio quod per tenentes dominis suis debetur ratione feodi sui.

The word "servitium" is regularly taken in the law of England to mean the service which is due their lord from the tenants by reason of their fee.

servitium intrinsecum. Service which was due the chief lord from the tenant.

servitium liberum. Free service, the service rendered by freemen, as distinguished from that which was rendered by serfs and vassals.

servitium militare. Same as **knight-service.**

servitium regale. Royal service, service which was due the king in the exercise of his prerogative rights.

servitium scuti. Service money; scutage or money paid by the tenant to his lord in lieu of knight service. See 2 Bl Comm 74.

servitium sokae. Service of the plow. Same as **socage.**

servitude. The term of the civil law for easement. The right of the owner of one parcel of land, by reason of his ownership, to use the land of another for a special purpose of his own, not inconsistent with the general property in the other person. *Korricks Dry Goods Co. v Kentall*, 33 Ariz 325, 264 P 692, 58 ALR 145. Bondage.

See **easement; involuntary servitude.**

servitude in gross. See **easement in gross.**

servitude of drip. See **easement of drip.**

servitus. (Civil law.) The condition of a slave; slavery; servitude; an easement; a servitude.

servitus actus. Same as **servitus itineris.**

servitus altius non tollendi. (Civil law.) The easement or servitude of not being free to build any higher than the buildings of one's neighbor.

servitus aquae ducendi. (Civil law.) The servitude or easement of running water across the land of another.

servitus aquae hauriendae. (Civil law.) The servitude or easement of drawing water from a well or spring on the land of another.

servitus cloacae mittendae. (Civil law.) The servitude or easement of transmitting sewage across the land of a neighbor.

servitus fumi imittendi. (Civil law.) The servitude or easement of conveying smoke through the chimney of a neighbor, or over his land.

servitus itineris. (Civil law.) The servitude or easement of passing over a neighbor's land on horseback, by carriage or on foot.

servitus luminum. (Civil law.) The servitude or easement of having the light come unobstructed to a certain part of one's premises or through certain windows or openings.

servitus ne luminibus officiator. (Civil law.) A servitude or easement under which one's light was not to be obstructed by his neighbor.

Servitus non ea natura est, ut aliquid faciat quis, sed ut aliquid patiat aut non faciat. (Civil law.) It is not in the nature of a servitude or easement that a person should do something, but that he should suffer something or should not do something.

servitus oneris ferendi. (Civil law.) The servitude or easement of furnishing support for a neighbor's building.

servitus pascendi. (Civil law.) The servitude or easement of pasturing cattle on the land of a neighbor.

servitus pecoris ad aquam adpulsam. (Civil law.) The servitude or easement of driving cattle to water on the land of a neighbor.

servitus praedii urbani. (Civil law.) An urban servitude; any servitude or easement which was appropriate to a city estate.

servitus praediorum. (Civil law.) A praedial servitude; a servitude or easement in the land of another.

servitus projiciendi. (Civil law.) The servitude or easement of projecting one's building over the land of another.

Servitus servitutis esse non potest. There cannot be an easement upon an easement.

servitus stillicidii. (Civil law.) The servitude or easement of permitting the rain water to drip from the eaves of one's house upon the land of a neighbor.

servitus tigne immittendi. (Civil law.) The servitude or easement of inserting a beam in the wall of one's neighbor.

servitus viae. (Civil law.) The servitude or easement of a right of way over the land of a neighbor.

servus. A slave; a servant.

Servos facit, ut herus det. The servant performs that the master may give.

A maxim of the civil law illustrating the reward or consideration of a contract of employment. See 2 Bl Comm 445.

sess. An assessment or tax.

sessio. A session; a meeting; a sitting.

session. The time during which a legislative body, other assembly, or court meets for the transaction of business. People v Auditor of Accounts, 64 Ill 82, 86. The meeting of an administrative board, agency, or commission. 2 Am J2d Admin L §§ 227 et seq. The meeting of any organized body or group. A meeting of a legislative body for a day; the entire period during a particular year in which a legislature assembled for business, as the 45th session of the General Assembly of Iowa.

session laws. The collected laws which have been enacted at the successive sessions of a state legislature.

session of court. Broadly, a term of court. Precisely, a time during a term of court when the court actually sits for the transaction of business. 20 Am J2d

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Cts § 44. The time during which the court is in fact holding court at the place appointed, and engaged in business. Re Gannon, 69 Cal 541, 545, 11 P 240.

sessions of the peace. A court of record held before two or more justices of the peace for the execution of the authority given them by their commission and certain acts of Parliament. People v Powell (NY) 14 Abb Pr 91, 93.

set. Adjective: Fixed or established. Verb: To put in place. To mark down; to put on paper.

See **articles of set.**

set apart. To divide for a purpose, sometimes for identification, as in setting apart a homestead.

Under a divorce statute authorizing the court to decree that the separate property of the husband be "set apart" for the support and maintenance of the wife, the words include authority to decree the transfer of absolute title to such property to the wife. Powell v Campbell, 20 Nev 232, 20 P 156.

set aside. See **setting aside.**

setback lines. See **building lines.**

setback restriction. See **building lines.**

set fire to. To make burn. 5 Am J2d Arson § 43.

In the law of arson it has been held that the terms "burn" and "set fire to" are synonymous, and that the use of the latter term does not vary the common-law rule that burning is necessary to the offense. Anno: 1 ALR 1164.

set for trial. See **setting case for trial.**

set of bills. See **bills in a set.**

set of exchange. See **bills in a set.**

setoff. A discharge or reduction of one demand by an opposite demand. Malle v Harrell, 118 Tex 149, 12 SW2d 550. A defense or an independent demand made by the defendant to counterbalance that of the plaintiff, in whole or in part. Mack v Hugger Bros. Constr. Co. 153 Tenn 260, 283 SW 448, 46 ALR 389. The right which exists between two persons, each of whom under an independent contract, express or implied, owes an ascertained amount to the other, to set off their mutual debts by way of deduction so that in an action brought for the larger debt, the residue, only after such deduction, may be recovered.

Teeters v City Nat. Bank, 214 Ind 498, 14 NE2d 1004, 118 ALR 383. A counter demand which a defendant holds against a plaintiff, arising out of a transaction extrinsic to the plaintiff's cause of action. 20 Am J2d Countcl § 2. A money demand independent of and unconnected with the plaintiff's cause of action. *Pekofsky v State*, 15 Misc 2d 358, 180 NYS2d 930. In the broad sense, the discharge or reduction of one demand by an opposite one, or the right one party has against another to use his claim in full or partial satisfaction of what he owes to the other. 20 Am J2d Countcl § 2. Simply a mode of defense whereby the defendant acknowledges the justice of the plaintiff's demand on the one hand, but, on the other, sets up a demand of his own to counterbalance it, either in whole or in part. *Peacock Hotel v Shipman*, 103 Fla 633, 138 So 44; *Steck v Colorado Fuel & Iron Co.* 142 NY 238, 37 NE 1. In relation to transactions in futures, the method by which a contract to purchase is set off against a contract to sell without the formality of an exchange of warehouse receipts or actual delivery of the commodity, being in legal effect a delivery. *Lyons Mill Co. v Goffe & Carkener* (CAI 0 Kan) 46 F2d 241, 83 ALR 501. In respect of a decedent's estate:-the right of an executor or administrator, who is himself a creditor of the estate, to retain the amount of such debt out of the funds of the estate in his hands. A term used loosely for the right of an executor or administrator to deduct indebtedness due from a distributee. 31 Am J2d Ex & Ad § 567.

setoff of benefits. Deducting the benefit to remaining property from a public improvement in ascertaining damages for property taken in eminent domain. 27 Am J2d Em D § 357.

setoff of judgments. A right of an equitable nature, arising as an incident of the general jurisdiction of the court over its suitors, whereby the satisfaction of a judgment may be wholly or partly produced by compelling a judgment creditor to accept in payment a judgment to which he is subject. 30A Am J Rev ed Judgm § 1011.

set on foot. To arrange; to place in order; to set forward; to put in the way of being ready. *United States v Ybanez* (CC Tex) 53 F 536, 538.

set out. To start on a journey. To commence work upon a project to be accomplished. To set forth. To allege verbatim; to recite the very words of a document in a pleading. *First Nat. Bank of Chadron v Engelbercht*, 58 Neb 639, 641, 79 NW 556.

setting aside. Vacating, annulling; making void. A remedy on attack against an indictment for insufficiency, error, defect, or irregularity. 27 Am J1st Indict §§ 137 et seq.

"When it is said that such a voluntary deed is void or set aside, these terms must be understood as meaning only that the conveyance, while good against all others, shall not operate to defeat the equity of the creditors of the grantor." *Steinmeyer v Steinmeyer*, 64 SC 413, 42 SE 184.

See **quashing; vacation; vacation of judgment.**

setting case for trial. Fixing a certain day upon or after which the case may be called for final disposition or trial. 53 Am J1st Trial § 9.

"At the time the cause is first set upon the trial calendar," has been held to be synonymous with the words, "at the time the case is set for trial." *Mutual Bldg. & Loan Asso.* 220 Cal 282, 30 P2d 509.

settle. To take up residence in a place. To arrange or put in order. To pay a bill or account. To adjust differences; to eliminate controversy. To make a determination. To establish title or estate in a person.

When used with relation to pending litigation, the word has not acquired such a well defined meaning as would enable courts to interpret the intent of the parties in making use of it in connection with the ending of the litigation, without the aid of extrinsic evidence. Recourse must be had to the context of the agreement of the parties, to the circumstances under which the agreement was made, including the state and the various phases of the litigation referred to, and the conferences and correspondence between the parties pending the negotiation of the agreement. *Setzer v Moore*, 202 Cal 333, 260 P 550.

A written agreement "to settle" is not equivalent to an agreement to pay. It is not a recognition of the debt claimed; it is an offer to adjust matters and may be rather a denial of any indebtedness. *Parker v Carter*, 91 Ark 162, 120 SW 836.

When applied to a liquidated demand, "to settle" means to pay it. When applied to an unliquidated demand, the word means to effect a mutual adjust

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ment between the parties and to agree upon the balance. *State v Staub*, 61 Conn 553, 568.

settled account. An account which has been paid. 1 Am J2d Acctg § 21. In loose usage, an account stated.

settled insanity. Insanity caused by abstinence from alcoholic beverages by one whose system has been broken down by long-continued or habitual drunkenness.

It is called settled insanity to distinguish it from temporary insanity or drunkenness, directly resulting from drink. *Sanders v McMillian*, 31 Tex Crim 318, 20 SW 744.

settlement. The ending of a controversy by agreement. The determination of an issue or of the correctness of an account. The payment of an obligation. The order made upon a trustee's account, determining the amount of the trust in the hands of the trustee and his liability therefor, decreeing distribution to the parties entitled thereto, and in the case of a continuing trust, re-awarding the body of the trust to the trustee for further administration. 54 Am J1st Trusts § 511. An administrative determination of the amount due from the United States upon a public contract. *Illinois Surety Co. v United States*, 240 US 214, 221, 60 L Ed 609, 614, 36 S Ct 326.

The actual occupation of lands by a pre-emptor for the purpose of obtaining title thereto from the government. 42 Am J1st Pub L § 22.

As a prerequisite to the acquisition of public lands of the United States, the term is used as comprehending acts done on the land by way of establishing or preparing to establish an actual personal residence-going thereon and, with reasonable diligence, arranging to occupy it as a home to the exclusion of one elsewhere. The law makes it plain that there must be a definite purpose in good faith to obtain a home by proceeding faithfully and honestly to comply with all the requirements. See *Great Northern Railway Co. v Reed*, 270 US 539, 545, 70 L Ed 721, 724, 46 S Ct 380.

A settlement on public lands of the United States with a view to pre-empt is made by a person who inhabits and improves such land and erects a dwellinghouse thereon, in good faith and with a view and intent of obtaining title to the same by complying with the provisions of the pre-emption law of the United States. See *Peterson v First Division St. Paul & Pacific Railroad Co.* 27 Minn 218, 222.

See **compromise and settlement; equity for a settlement; family settlement; marriage settlement; property settlement.**

settlement in pais. A settlement or adjustment of differences between the parties themselves, out of court.

settlement of a minister. A term of art, of little significance in modern times.

In colonial times in New England it was the general practice of parishes not having parsonages to grant a sum of money or other property to the minister, exclusive of his annual salary, which is emphatically called his settlement. This name was derived from the uses to which it was intended the money should be applied by him. That is, he was expected to establish a permanent home among his people and be conveniently situated to perform his duties. 45 Am J1st Reli Soc § 29.

settlement of bill of exceptions. See **settlement of case.**

settlement of case. A settlement of a bill of exceptions by a determination that it is correct, made by the trial judge where the parties to the appeal are unable to agree to the correctness of the bill. 4 Am J2d A & E § 444.

settlement of pauper. The place where a poor person has a legal right to support as a pauper. The residence, home, or dwelling place, rather than the domicil, of the pauper. 41 Am J1st Poor L § 23. Sometimes both residence and domicil. Re Quale, 213 Minn 421, 7 NW2d 153 (condition of right to old-age assistance).

settlement option. An option provided for the insured under a life insurance policy, respecting the method and time of payment of the proceeds of the insurance. An option provided the annuitant under an annuity contract in reference to taking a straight annuity, an annuity with refund to a designated beneficiary, or an annuity with a contingent beneficiary. A similar option under a pension or retirement plan.

settler. One who has made a settlement upon public lands. A pioneer in a new country or a region newly opened to settlement in an older country.

settlor. The creator of a trust. One who has conveyed or transferred property to another who is to hold the same as trustee for the benefit of a third person or persons. The person who furnishes the consideration for the trust, even though in form the trust is created by another person, as where a decedent by paying a quid pro quo has caused another person to make a transfer of property with enjoyment subject to change by the exercise of such power by the decedent. Lyman v Commissioner (CA2 NY) 109 F2d 99.

seven bishops. See **Case of the Seven Bishops.**

Seventh Amendment. An amendment to the United States Constitution, contained in the Bill of Rights, preserving the right of trial by jury in suits at common law where the value in controversy exceeds \$20, and providing further that no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

seven years' absence. Absence from which there arises a presumption of death where it has continued as an unexplained absence of a person from his home or place of residence without any intelligence from or concerning him for the period of seven years. 22 Am J2d Dth § 304.

sever. To cut in two; to divide.

See **severance.**

severability. The quality of being susceptible to division, leaving parts independent of each other.

severability clause. Same as **saving clause.**

severability of contract. The quality in a contract in contrast with entirety. The quality which renders the contract susceptible to division into sets to be performed, each set embracing a performance on the one side which is an agreed exchange for performance on the other. Restatement, Contracts § 266, Comment e. A quality which renders enforceable a valid part, it availing pro tanto, although another part may be invalid. 17 Am J2d Contr § 230. A quality which characterizes an agreement reached by the parties through negotiations wherein each item or some of the items were regarded as units, as distinguished from an agreement whereof the items were regarded from no

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point of view other than that in which they were regarded as a whole, as an entirety without divisibility. A quality to be determined according to the intention of the parties as determined by a fair construction of the contract itself, by the subject matter to which it has reference, or the circumstances of the particular transaction giving rise to the question. 17 Am J2d Contr § 325.

As a general rule a severable contract is one in its nature susceptible of division and apportionment. Whether a contract is entire or separable is a question very largely of intention, which intention is to be determined from the language the parties have used and the subject matter of the agreement. The divisibility of the subject matter or the consideration is not necessarily conclusive, though of aid, in arriving at the intention. Where it reasonably appears from the language of the contract or from its terms that the parties intended that a full and complete performance should be made with reference to the subject matter of the contract by one party, in consideration of the obligation of the other party, to the contract, it is said to be entire. *Quarton v American Law Book Co.* 143 Iowa 517, 121 NW 1009.

A contract may be severable as to some of its terms, or for certain purposes, but indivisible as to other terms or for other purposes. *Simmons v California Institute of Technology*, 34 Cal 2d 264, 209 P2d 581.

In construing a contract to determine whether it is entire or severable, many of the courts have regarded the singleness or apportionability of the consideration as an important test—that is, if the consideration is single, the contract is entire, but if the consideration is expressly or by necessary implication apportioned, the contract is severable. 17 Am J2d Contr § 326.

A plaintiff can sue once; he must then set up his whole cause of action. He cannot sue in successive actions for different parts of the same thing. But separate independent agreements may be included under one contract, and if they are divisible, suit upon one agreement does not preclude suit upon the other. The usual test of severability is whether the consideration is so segregated that it may be severally applied to each independent covenant in the contract. *Hospelhorn v Circle City Coal Co.* (CA6 Ky) 117 F2d 166.

severability of deposition. The quality of being susceptible to division, leaving parts independent of each other; a quality upon which the right to use only a part of a deposition upon a trial is based. 23 Am J2d Dep § 108.

severability of statute. A concept applicable when a part of a statute is unconstitutional, the question being whether severability permits the saving of the part not unconstitutional in itself. The quality of a statute in the respect that a part of it has meaning and can stand by itself. A matter to be determined according to the apparent intent of the legislative body which enacted the legislation. 16 Am J2d Const L § 182.

If it is impossible to tell what part of a statute is intended to be operative when some of its provisions are unconstitutional, it is wholly invalid. *Woolf v Fuller*, 87 NH 64, 174 A 193, 94 ALR 1067.

severable contract. See **divisible contract**; **severability of contract**.

severable deposition. See **severability of deposition**.

severable judgment. A judgment consisting of separate, distinct, and unrelated parts, the disposition of one of which on appeal will not affect the other, as where a judgment is on different causes of action pleaded in separate counts, or severed by the court, so that they stood independently for the purpose of an award of judgment. 4 Am J2d A & E § 254.

severable statute. See **severability of statute**.

several. Separate and distinct, implying diversity or division. *Merrill v Pepperdine*, 9 Ind App 416, 36 NE 921. *Lunt v Post Printing & Publishing Co.* 48 Colo 316, 110 P 203. More than two, but not a multitude. Sometimes deemed to include as many as seven. *Tift v Harden*, 22 Ga 623.

several actions. Actions which are separate, as distinguished from those which are joint.

several covenant. A covenant made with two or more covenantees which contains words of severalty, or whereby the covenantees take separate interests in the fruits of the covenant.

A covenant by more than one person must be regarded as several, where the interest of the covenantors is separate and performance cannot be made jointly, unless the intention of the parties appears to have been that each should be bound for the performance of the other. 20 Am J2d Cov § 10.

several defenses. Separate defenses by joint defendants. 41 Am J1st Pl § 119. Two or more defenses pleaded by one defendant. 41 Am J1st Pl §§ 161 et seq.

several fishery. An obsolete term for an exclusive fishery.

See **exclusive fishery**.

several inheritance. A characteristic of descent, heirs taking moieties as tenants in common. 23 Am J2d Desc & D § 50.

several liability. The individual liability of two or more persons in reference to claimant's demand. *Pruyn v Black*, 21 NY 300, 303.

See **joint and several liability**.

severally. Distinctly; separately; apart from others. *State Nat. Bank v Reilly*, 124 Ill 464, 471.

severally liable. See **several liability**.

several ownership. Ownership by a single person, as distinguished from ownership as tenant in common or joint tenant.

severalty. See **estate in severalty; in severalty; tenant in severalty**.

severance. The act of severing, dividing, or separating; the state of being disjoined or separated. Anno: 18 ALR 1342. The act or fact of so removing anything attached or affixed to land, or a part of the land itself, so as to change its character from being a part of the real property to personal property. *Buckout v Swift*, 27 Cal 433. A graphic expression for separation of the ownership of minerals from the ownership of the land. 36 Am J1st Min & M § 29. A conveyance of land with an exception or reservation of mineral rights or a conveyance of the mineral rights or of the surface alone. 24 Am J1st Gas & O § 17. The termination of a joint tenancy or tenancy in common. 20 Am J2d Coten §§ 15, 31.

See **harvest**.

severance of action. The splitting of a cause of action by a pleader. The severance of issues for separate trials. A method of granting separate trials to sepa-

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rate defendants in a civil action. 53 Am J1st Trial § 55.

See **severance of criminal prosecution; severance of issues; splitting cause of action**.

severance of criminal prosecution. Separate trials of the defendants in a criminal case because of antagonistic defenses, admission or confession by one, etc. 53 Am J1st Trial §§ 56 et seq.

severance of issues. The separation of issues appearing in a trial for a separate trial of a particular issue or issues, especially where there are equitable issues to be tried to the court and issues at law to be tried to a jury. 53 Am J1st Trial § 53.

severance of member. The amputation or physical separation of arm, leg, hand, etc. Anno: 18 ALR 1342; 29A Am J Rev ed Ins § 1511.

severance of statute. The separation by judicial construction of those provisions of the statute which are constitutional from those which are unconstitutional, and striking the latter from the statute. *Ballard v Mississippi Cotton Oil Co.* 81 Miss 507, 34 So 533.

See **severability of statute.**

severance pay. A payment made by an employer to an employee upon termination of the employment, otherwise known as dismissal compensation or separation wage.

See **dismissal compensation.**

severance tax. A tax directed against the production, or severance from the soil, of natural resources such as timber, oil, natural gas etc. 51 Am J1st Tax § 1259. A tax on the skin of a fur-bearing animal taken within the state. 35 Am J2d Fish § 41.

severe. Serious; grave. Harsh; strict.

See **intolerable severity.**

severe disease. A disease causing a severe illness. Anno: 153 ALR 717. A disease which permanently or materially impairs, or is likely to impair permanently or materially, the health or constitution. 29 Am J Rev ed Ins § 745.

severe gale. A wind of great velocity, having the capacity of wreaking great destruction. *Missouri Pacific Railroad Co. v Columbia*, 65 Kan 390, 69 P 338.

severe illness. An illness which permanently or materially impairs, or is likely to impair permanently or materially, the health or constitution. Anno: 153 ALR 717; 29 Am J Rev ed Ins § 745.

severing. See **sever; severance.**

sewage. Filth and waste matter carried away in sewers and drains. 25 Am J2d Drains § 1. Excrement, as well as waste, refuse or foul matter, carried off in sewers and drains, whether open or closed, by the water flowing therein. *Durham v Eno Cotton Mills*, 144 NC 705, 57 SE 465.

sewage disposal plant. See disposal plants.

sewer. An underground conduit or covered drain which carries away filth and waste matter, or, as in the case of a storm sewer, surface water and street wash. *Anselmi v Rock Springs*, 53 Wyo 223, 80 P2d 419, 116 ALR 1250; 25 Am J2d Drains § 1.

That which is a "drain" in rural and agricultural communities may be called a "sewer" in an urban community. 25 Am J2d Drains § 1.

sewerage. The sewer system of a municipality or other political subdivision. The removal of sewage. Sewage.

sex. Character as male or female. Comprehensive in the modern sense of the term of anything connected with the attraction of one sex for the other in a physical way and sexual intercourse.

See **asexualization.**

sexagenarian. A person over sixty but less than seventy years of age.

sex deviate. See homosexual; lesbian.

sextery lands. Lands which were donated to a church for the support of its sexton.

Sextus Decretalium. The sixth decretal which was added to the decretals of Gregory IX., by Boniface VIII., about 1298. See 1 Bl Comm 82.

sexual assault. The indecent conduct of a man toward a woman or child or of a man toward another man, accompanied by the threat or danger of physical suffering or injury or inducing fear, shame, humiliation, and mental anguish. 6 Am J2d Asslt & B § 24. The act of a man in taking indecent liberties with a woman, as where he indecently fondles her without her consent. Walker v State, 132 Ala 11, 31 So 557. The act of a man in placing a woman in fear of an attack by him upon her chastity. 6 Am J2d Asslt & B § 119.

See **assault with intent to rape; indecent assault.**

sexual commerce. Same as **sexual intercourse.**

sexual disease. Same as **venereal disease.**

sexual intercourse. The actual contact of the sexual organs of a man and a woman, and an actual penetration into the body of the latter. State v Frazier, 54 Kan 719, 725, 39 P 819.

The term does not comprehend intercourse which is partial or imperfect, as in cases where that is impossible because of malformation, sensitive repugnance, or impotence. 4 Am J2d Annul § 32.

sexual psychopath. One affected with a form of psychopathic personality which disposes him to the commission of sexual offenses. A person who, by a habitual course of misconduct in sexual matters, has evidenced an utter lack of power to control his sexual impulses, and who, as a result, is likely to attack or otherwise inflict injury, loss, pain, or other evil on the objects of his uncontrolled and uncontrollable desires. State ex rel. Pearson v Probate Court, 205 Minn 545, 287 NW 297, affd 309 US 270, 84 L Ed 744, 60 S Ct 523, 126 ALR 530. A person in whom there is combined emotional instability and impulsiveness of behavior or inability to appreciate the consequences of his acts, so that he is unable to control his sexual desires and thereby dangerous to other persons. Ditrich v Brown County, 215 Minn 234, 9 NW2d 510. A person adjudicated to be a "sexual psychopath." Anno: 24 ALR2d 373, § 9.

shackles. Iron bands fastened on the legs or arms of a prisoner and joined by a chain.

See **handcuffs; manacles.**

shadow. To trail a person from place to place, observing his activities and associates, usually with the intent to prevent him from becoming aware of the surveillance.

See **rough shadowing.**

shadow area. The part of a field of controversy which is indefinite as to the exact nature of the questions presented. An area in which questions of law and questions of fact coalesce. 5 Am J2d A & E § 829.

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shaft. A part of a mine; a vertical or slanting passage way from which lateral diggings reach the mineral. A heavy rod by which power is applied to a moving part of a machine.

See **discovery shaft.**

Shakers. A religious society known particularly for condemning marriage contracted with unworthy motives. Waite v Merrill, 4 Me 102.

shale. A mineral. Anno: 17 ALR 167, s. 86 ALR 990.

Rock formed by the consolidation of clay, mud, or silt, having a finely stratified or laminated structure.

It presents almost endless varieties of texture and composition, passing, on the one hand, into clays, or, where much indurated into slates and argillaceous schists; on the other into flagstones and sandstones; or again through calcareous gradations into limestone, or through ferruginous varieties into clay ironstone, and through bituminous kinds into coal. R. J. Funkhouser & Co. v Fiske & Co. (CA3 Pa) 106 F2d 679.

shall. Providing generally, but not always, a mandate, where appearing in a constitutional provision. 16 Am J2d Const L § 92. Ordinarily, a word of mandate, the equivalent of "must," where appearing in a statute. Stanfield v Willoughby (Ky) 286 SW2d 908, 53 ALR2d 925; State ex rel. McKittrick v Wymore, 343 Mo 98, 119 SW2d 941, 119 ALR 710; Saba v Homeland Ins. Co. 159 Ohio St 237, 112 NE2d 1, 44 ALR2d 841. Construed as "must" in a statute providing for increased punishment for a subsequent offender. People v Gowasky, 244 NY 451, 155 NE 737, 58 ALR 9. Sometimes meaning "may," as where used in a statute providing that when property owners petition for the improvement of a street, the municipal authorities "shall" cause the work to be done. Rockwell v Junction City, 92 Kan 513, 141 P 299.

The word "shall" may be held to be merely directory when no advantage is lost, when no right is destroyed, when no benefit is sacrificed, either to the public or to any individual, by giving it that construction. Montgomery v Henry, 144 Ala 629, 39 So 507.

shall become due and payable. Due and payable at the option of the holder of the instrument in which the clause appears. Nickell v Bradshaw, 94 Or 580, 183 P 12, 11 ALR 623.

shall go. The equivalent of "shall vest" where used in a statute of descent. Plass v Plass, 121 Cal 131, 53 P 448.

sham. Adjective: False, counterfeit, pretended, feigned, unreal. Noun: Deception; any trick or fraudulent device that disappoints; a makebelieve imposition; a humbug. Williams v Territory, 13 Ariz 27, 108 P 243.

sham answer. See **sham pleading.**

sham bidder. One who bids at an auction for the purpose of inflating the price for the benefit of the owner of the property or other person interested in the sale; a puffer.

See **puffer.**

sham conviction. A conviction in a sham or collusive proceeding under which the defendant pleads guilty to a minor offense in order to avoid an anticipated prosecution on a more serious charge based on the same facts. Anno: 75 ALR2d 691, § 4.

sham defense. See **sham pleading.**

sham gift. A gift in form but not in fact, there being no intent or understanding on the part of the purported donor or purported donee that the former should divest himself of control over the subject matter. Richardson v Smith (CA2 Conn) 102 F2d 697, 125 ALR 774.

sham marriage. A marriage ceremony performed in jest. A marriage entered into by one of the parties in good faith but illegal because of intentional acts or omissions on the part of the other party. Lee v State, 44 Tex Crim 354, 72 SW 1005.

sham pleading. Allegations pleaded in bad faith. A pleading which is false in fact to the knowledge of the pleader, whatever it may be in form. 41 Am J1st Pl § 50. A pleading palpably and manifestly false on its face. Commonwealth ex rel. Meredith v Murphy, 295 Ky 466, 174 SW2d 681.

See **frivolous answer.**

shape-up. A labor-law term for a system of hiring a crew for a particular job.

The particular needs of an employer are communicated to the union which, together with the employer, shares the responsibility for posting information at various places, and the employer then employs a hiring boss, both for the purpose of recruiting a specific crew from among those applicants who appear at a predesignated "shape-up" point, and for the purpose of acting thereafter as crew foreman until the work is completed. Anno: 38 ALR2d 414.

share. A word of different connations. 57 Am J1st Wills § 1327. The portion of a testator's estate given to a particular beneficiary. 57 Am J1st Wills § 1327. The portion of an intestate estate to which one of two or more heirs or distributees is entitled. A share of corporate stock. The proportional equitable ownership of a shareholder in a business trust. Schumann-Heink v Folsom, 328 Ill 321, 159 NE 250, 58 ALR 485.

See **distributive share; share of stock.**

share and share alike. Ordinarily, but not necessarily, a phrase of severance which negatives the creation of a joint tenancy. Anno: 46 ALR2d 532, 537. Ordinarily, but not necessarily, indicative of a per capita distribution. Anno: 126 ALR 159; 57 Am J1st Wills §§ 1265, 1297.

share-a-ride arrangement. See **car pool.**

sharecropper. One whom a landowner engages under a sharecropping arrangement. 21 Am J2d Crops § 35.

sharecropping. An arrangement whereby a landowner hires a person to cultivate the land and raise a crop thereon and to receive for his labor a share of the crop which he works to make and harvest. 21 Am J2d Crops § 35.

shareholder. A stockholder. A participant in a business trust, occupying a relation to the trust similar to the relation of a stockholder in a corporation to the corporation. 13 Am J2d Bus Tr § 30. Broadly, one who holds or is entitled to a share in any form of enterprise or property.

As to the several classes of persons who are included in the term shareholder as it is used in the Federal statute authorizing an assessment of one hundred per cent against a shareholder of a national bank, for the benefit of creditors of the bank, see *McCandless v Haskins* (DC SD) 20 F2d 688.

See **stockholder; treasury shares.**

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shareholder's derivative suit. See **derivative action.**

share lease. A lease providing for the payment of grain or crop rent.

See **share rent; share tenant.**

share lien. The lien of a building and loan association upon shares of its stock for any indebtedness of the shareholder to the association. 13 Am J2d B & L Assoc § 26.

share of stock. A unit of interest in a corporation. The property interest of a stockholder in the corporation. 18 Am J2d Corp § 209.

The tangible property of a corporation and the shares of stock therein are separate and distinct kinds of property and belong to different owners, the first being the property of the artificial person –the corporation –the latter the property of the individual owner.

A share of stock merely represents, or is a fractional part of, some other property. *Millar v Mountcastle*, 161 Ohio St 409, 119 NE2d 626, 49 ALR2d 381.

Shares of stock are to be distinguished from the certificates which merely represent ownership of the stock. State v Crawford, 159 Or 377, 80 P2d 873.

share rent. A rent payable in a share of the crop produced upon the demised premises. 32 Am J1st L & T § 468.

share-ride arrangement. See **car pool**.

share tenant. A tenant who holds land under a lease which provides that he is to share the crops produced with his landlord. Louisiana Farm Bureau Cotton Growers' Co-op. Assn. v Bannister, 161 La 958, 962, 109 So 776.

See **share rent**.

share warrant. A warrant or certificate issued by a corporation evidencing the right of its holder to receive a specified number of paid-up shares of the stock of the corporation.

shave. To cut away. To strip or pillage. To oppress by extortion. To deceive, defraud, or overreach. Bronson v Wiman (NY) 10 Barb 406, 428. To make a profit by taking an unconscientious advantage of another. To exact a discount at an unconscientious rate. Stone v Cooper (NY) 2 Denio 293, 295.

she. The nominative form of the feminine pronoun, applicable to a woman, girl, female animal, or ship.

sheathing. A covering, particularly of a wall. 13 Am J2d Bldgs § 13. The covering of a roof, the shingles resting thereon.

sheath knife. See **bowie knife**.

shed. An outbuilding, especially on farm premises. A shelter for animals. A part of the freehold. Roden v Williams, 100 Ncb 46, 158 NW 360.

sheep. A mammal. A domestic animal kept for the production of wool, which is taken from the shorn fleece, and for meat known as mutton.

sheep range. See **range**.

sheer. Verb: To deviate from a course. Adjective: Transparent. Unmixed. perpendicular.

In nautical language, the word means a deviation from the line of the course in which a vessel should be steered, and though it may occur from causes unpreventable by the most skilful seamanship, it more often happens from an unsteady helmsman; as where he is not watchful enough of the state of the tide when advancing to a dock. Camden & Amboy Railroad Co. v Brady (US) 1 Black 62, 17 L Ed 84, 88.

sheet. See **balance-sheet**; **charge-sheet**.

sheeting. See **sheathing**.

shelf lands. See **Outer Continental Shelf**.

Shelf Lands Act. See **Outer Continental Shelf Lands Act**.

shell eggs. Ordinary chicken eggs as distinguished from eggs which have been powdered or otherwise processed; an agricultural commodity within the meaning of the exemption of such commodity from the general coverage of the Federal Motor Carrier Act. 13 Am J2d Car § 41.

Shelley's Case. See **Rule in Shelley's Case.**

shellfish. Oysters, clams, and other aquatic animals without the power of locomotion. A subject of private ownership where planted in a place, marked by posts or otherwise, where none of the kind have been growing naturally. 35 Am J2d Fish § 5.

shellfishery. A place for gathering shellfish, such as oysters and clams; or in a broader sense, the right to take shellfish which may be found on the bed of a particular stretch of water. 35 Am J2d Fish § 13. A matter of private right where shellfish have been planted in a marked place in which none of the kind have been growing naturally. 35 Am J2d Fish § 5.

shelter. Housing. A local term for housing and care of dependent or delinquent children. A place wherein domestic animals are protected against rain, snow, and cold.

sheriff. A public officer; an officer having the dual character of a peace officer and a ministerial officer. 47 Am J1st Sher § 3. A county officer representing the executive or administrative power of the state within his county. 47 Am J1st Sher § 2. An officer for the execution of criminal and civil process.

The office of sheriff is one of the oldest known to the common law. It is inseparably associated with the county. The name itself signifies keeper of the shire or county. The office is said to have been created by Alfred when he divided England into shires, but Coke believed it to have been of Roman origin. In England the sheriff was the immediate officer of the king within the shire, the conservator of the peace within the county, keeper of the county jail and commander of the posse comitatus, and he served and enforced the processes of the state. In the United States his functions are similar and he is the chief executive officer of the state in his county. He obeys the mandate of the state not only when issued to him by the courts of his county, but he executes writs directed to him by the courts of other counties. State ex ref. Beach v Finn, 4 Mo App 347, 352.

sheriffalty. Same as **shrievalty.**

sheriffs certificate of sale. See **certificate of sale.**

sheriffs' courts. The principal courts of the city of London.

They were held before their steward or judge, and from them a writ of error lay to the court of hustings, before the mayor, recorder and sheriff. See 3 Bl Comm 81, note.

sheriffs deed. The deed given by the sheriff who conducts an execution sale of real estate to the purchaser. 30 Am J2d Exec § 393. The deed given to the purchaser at a judicial sale conducted by the sheriff under an order directing him in his official

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capacity to conduct the sale. 30A Am J Rev ed Jud S § 172.

sheriffs indemnity. The statutory right which a sheriff has in many jurisdictions to demand and receive indemnity for enforcing an execution where he entertains a doubt as to the title to the property to be levied on. 47 Am J1st Sher § 143. The bond which indemnifies the sheriff directed to seize and hold property under a writ of execution, where such property is claimed by one other than the defendant in the execution. 30 Am J2d Exec § 752.

sheriffs inquest. See **inquest of office; inquest of title.**

sheriffs jury. A jury impaneled to inquire into and render verdict as to the ownership of personal property seized under execution. 30 Am J2d Exec § 1 19.

sheriff's sale. See **execution sale; judicial sale.**

sheriffwick. Same as **shrievalty.**

Sherman Act. The federal antitrust act which denounces contracts, combinations, and conspiracies in restraint of trade or commerce, supplemented by the Wilson Tariff Act and the Clayton Act. 15 USC §§ 1 et seq; 36 Am J1st Monop etc. § 141.

Sherrer Case. An important decision by the United States Supreme Court on the effect of a foreign judgment of divorce as res judicata on the issue of jurisdiction where the defendant, a nonresident, appeared in the action but did not contest on the issue of jurisdiction. Sherrer v Sherrer, 334 US 343, 92 L Ed 1429, 68 S Ct 1087, 1 ALR2d 1355.

shewage. Same as **scavage.**

shewer. A person appointed by the court during the progress of a trial to conduct a viewing by the jury.

shifting. Changing position. Varying. Passing from one person to another.

shifting burden of tax. Employing a condition in a will whereunder certain bequests are to bear the burden of an inheritance or estate tax, thereby relieving from payment of such tax a bequest which otherwise would be chargeable therewith. Anno: 117 ALR 126; 37 ALR2d 110.

shifting descents. The rule of the English common law that a descent of land, once vested, is liable to be defeated by the later birth of an heir, even a remote heir who, however, is in a nearer degree of kinship than the heir in whom the descent first vested. 23 Am J2d Des & D § 89.

shifting of burden of proof. The passing of the burden of proof in the sense of the duty of producing evidence to meet the evidence produced, or the prima facie case made by one's adversary, from side to side as the trial of the case progresses and evidence is introduced by the respective parties. 29 Am J2d Ev § 124.

The ultimate burden of proof, that is, the burden of establishing the truth of a given proposition by the quantum of proof required by law never shifts. 29 Am J2d Ev § 124.

shifting risk. See **blanket policy.**

shifting severalty. An estate in land of limited duration.

shifting stock. The ordinary stock of merchandise which from day to day is depleted by sales and restored by purchases.

shifting uses. Estates in futuro, known as executory interests, created by conveyances to uses, recognized in equity and validated by the Statute of Uses, but invalid under the early common law as in contravention of the rigid rules against a limitation of a fee on a fee or the taking effect of a future estate by the cutting short of a prior estate. 28 Am J2d Est § 333.

shilling. An English coin, amounting in value to twelve pence or the one-twentieth part of a pound.

shin-plaster. A piece of paper money much depreciated in value.

Shinto. A religion of the Japanese.

ship. Verb: To deliver goods and merchandise to a carrier for transportation. *State v Carson*, 147 Iowa 561, 126 NW 698. To load upon car, truck, or ship for transportation. *State v Carson*, 147 Iowa 561, 126 NW 698. To transport. Noun: A marine structure intended for transportation of goods or passengers. 48 Am J1st Ship § 36.

The word, as applied to a vessel, embraces her boats, tackle, apparel, and appurtenances, because part of the ship as a going concern, and for the same reason, "ship or vessel of war" includes her armament, search lights, stores,-everything, in short, attached to or on board the ship in aid of her operations. *United States v Dewey*, 188 US 254, 268, 47 L Ed 463, 471, 23 S Ct 415.

As to what constitutes a ship subject to salvage, see 47 Am J1st Salv § 3.

A contract "to ship by" a certain vessel for a particular voyage ordinarily means to put on board and does not include the subsequent carriage. *Harrison v Fortlage*, 161 US 57, 40 L Ed 616, 16 S Ct 488.

See **vessel**.

ship and outfit. A term stating the subject of marine insurance effected for the purposes of a fishing voyage, consisting principally in the apparatus and instruments necessary for the taking of fish, seals, etc., and the disposing of them when taken, in such a manner as to bring home the produce of the voyage, but not including "goods" in the ordinary sense of the term. 29 Am J Rev ed Ins § 304.

ship broker. An agent for the transaction of business between owners of ships and charterers or shippers. A person who negotiates the purchase and sale of ships and the business of freighting vessels. *Little Rock v Barton*, 33 Ark 436, 446.

shipbuilding lien. A lien which has been very generally provided by statute in various states for labor and materials furnished toward the original construction of vessels.

It is in no sense a maritime lien and cannot be enforced in an admiralty court. 48 Am J1st Ship § 554.

ship-chandler. A dealer in supplies and provisions for ships.

shipmaster. See **master of ship**.

shipment. The delivery of goods on board a carrier. 46 Am J1st Sales § 168. Goods consigned for transportation.

A shipment was held to have been made by placing goods on board a vessel bound for the intended destination and engaged in an honest effort to obtain a cargo for that port. *Mora Y Ledon v Havemeyer*, 121 NY 179, 24 NE 297.

shipment by freight. Shipment by railroad.

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ship mortgage. A mortgage covering a vessel, governed by the law of chattel mortgages generally and by statutory provisions. 48 Am J1st Ship § 72.

Ship Mortgage Act. A federal statute regulating mortgages covering vessels registered or enrolled as United States vessels. 46 USC §§ 911 et seq. A statute which provides for a maritime lien enforceable by suit in rein in favor of any person furnishing repairs, supplies, towage, use of drydock, marine railway, or other necessities to a vessel upon the order of the owner or of a person authorized by the owner. 46 USC § 971.

shipowner's lien. The lien of a shipowner for demurrage, freight, or other maritime service or obligation. 48 Am J1st Ship § 562.

shipper. The consignor of a shipment. The person who entrusts goods to a carrier for transportation and delivery.

shipper's lien for loss. The lien which shippers have by the maritime law, upon the vessel employed in the transportation of their goods and merchandise from one port to another, reciprocal to the ship's lien for freight, as a security for the fulfilment of the contract of the carrier that he will safely keep duly transport and rightly deliver the goods and merchandise shipped on board, as stipulated in the bill of lading or other contract of shipment. 48 Am J1st Ship § 334.

shipper's weight, load, and count. A phrase inserted in a bill of lading by the carrier to place the responsibility for the manner of loading, the accuracy of the description of the goods in the bill, and the accuracy of the bill as to the number of articles in the shipment, upon the shipper. 13 Am J2d Car § 292.

shipping. Delivering goods or merchandise to a carrier for transportation. The business of transportation, especially by water. The instrumentalities of transportation by water, their regulation, ownership and employment and the rights and liabilities connected with or growing out of them.

shipping agent. An agent of a common carrier having general authority to make all reasonable contracts of carriage. 13 Am J2d Car § 227. An employee of an industry charged with duties respecting the obtaining of transportation for shipments of the products of his employer. A managing agent within the meaning of statutes concerning the service of process upon foreign corporations. Anno: 113 ALR 78, 79.

shipping articles. A formal agreement entered into between the master of a vessel and the members of the crew respecting the terms of employment, the voyage to be made, and other matters. 48 Am J1st Ship §§ 148 et seq.

shipping commissioner. A federal officer provided by statute for each port of entry which is also a port of ocean navigation to superintend the employment and discharge of seamen. 46 USC §§ 541 et seq.

shipping instructions. The instructions given by a shipper to the carrier concerning the nature of the shipment and the attention required to preserve it against damage or loss. 13 Am J2d Car § 316.

shipping order. An order given to the seller of goods by the buyer for the transportation of specific goods by carrier.

shipping receipt. A bill of lading. 13 Am J2d Car § 265.

ship receipt. The written acknowledgment of a ship receiving cargo, acknowledging the receipt of goods on board the vessel, describing them by the marks upon them or the packages. *People v Bradley* (NY) 4 Park Crim 245, 247.

ship's bill. That copy of a bill of lading executed in triplicate which is kept by the master for his own information as to the nature of his undertaking. ship's company. The officers and crew of a ship.

ship's course. See **course of vessel.**

ship's doctor. A qualified medical practitioner carried on a ship to administer to crew and such passengers as may be carried. 48 Am J1st Ship § 356.

ship's husband. A person appointed by part owners of a ship to act as the general agent of all the owners in respect of the ship, with authority to contract for necessary supplies, repairs, equipment, and services and to hire officers and crew. 48 Am J1st Ship § 104.

shipside. A familiar term in charter-parties and contracts of carriage.

In the case of a contract for the shipping of cotton to a port, consigned to the order of the shipper, shipside, the word "shipside" does not put the carrier on notice that the shipper had made a special contract with a steamship company in regard to carrying the cotton, so that special damages would be caused by delay in transportation. *Lee v Railroad*, 136 NC 533, 48 SE 809.

See **alongside**.

ship's papers. The registration or enrollment of a vessel and other papers required by law to be carried by a vessel as the primary and best evidence of national character and of the ownership of vessel and cargo. 48 Am J1st Ship § 218.

ship's service. See **service of the ship**.

ship's stores. See **stores**.

shipwreck. See **wreck**.

shipwrecked goods. Such goods as after a shipwreck are cast upon land, and left there, by the sea. 48 Am J1st Ship § 647.

shire. Another word for county, derived from the Saxon, particularly a county of England having a name ending in "shire." *State ex rel. Milton v Dickenson*, 44 Fla 623, 33 So 514.

shire clerk. The clerk of an English county court.

shire-mote. An English county court.

shire-reeve. Same as **sheriff**.

shock. A concussion or violent jarring. A sudden agitation of body or mind; a physical or mental manifestation of disturbance. A severe disturbance of the mind from distress or surprise. A disorder in the system of blood circulation, resulting from injury or onset of illness, and indicated by a decrease in blood pressure, weakness, often by unconsciousness. *Haile v Texas & Pacific R. Co.* (CA5 La) 60 F 557. The effect of an electric current passing through the body.

See **nervous shock**.

shocking evidence. Gruesome evidence. 29 Am J2d Ev § 260.

shock wave. See **sonic boom**.

shoddy. Any material which has been spun into yarn, knit or woven into fabric, and subsequently cut up, torn up, broken up, or ground up.

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Weaver v Palmer Bros. Co. 270 US 402, 409, 70 L Ed 659, 661, 46 S Ct 318. Cheap and inferior merchandise.

shoes of assignor. An assignee standing in the same position as his assignor. 6 Am J2d Assign § 102.

shoe track. A footprint.

shoot. To employ a firearm. To project a missile, arrow, or bullet by gun, bow, or sling. To use an explosive.

The word is frequently, perhaps usually, employed synonymously with the word "kill." Shooting a person naturally means that a person was hit by the substance with which the gun or pistol was loaded. *Bader v New Amsterdam Casualty Co.* 102 Minn 186, 112 NW 1065.

shooting a person. See **shoot.**

shooting craps. The same as throwing dice. 24 Am J1st Gaming § 20.

shooting gallery. A public place of recreation in the practice of marksmanship. 4 Am J2d Amuse § 40.

shooting match. A test of marksmanship, becoming illegal as gambling only where wagers are placed. 24 Am J1st Gaming § 28.

shooting oil well. The use of explosives in releasing the oil so as to make the well productive. *Clark v E. I. Du Pont D'Nemours Powder Co.* 94 Kan 268, 146 P 320.

shop. A place of employment. A working place, especially one which has machinery or mechanical power to be utilized in connection with the employment of the individual. 58 Am J1st Workm Comp § 117. A place where goods are sold at retail, especially wearing apparel. *Commonwealth v Annis*, 81 Mass (15 Gray) 197, 199.

A restaurant is a shop or store within the protection of a burglary statute. *State v Charette*, 98 NH 477, 103 A2d 192, 43 ALR2d 827.

A house used for the purpose of manufacturing woodwork has been regarded as a "shop," within the meaning of the word as used in a statute defining the subjects of arson. *State v Arthur*, 151 NC 653, 65 SE 758.

See **bucket shop; closed shop; open shop; pawnshop.**

shopbook. The account book of a tradesman or shopkeeper.

See **books of account.**

shopbook rule. The rule of evidence under which the books of account of a party are rendered admissible as evidence of goods sold and delivered or of services performed, it being the rule in the great majority of the states to admit entries in books made in the ordinary course of business at or near the time of the transaction to which they relate, where properly authenticated according to the requirements of the particular jurisdiction. 30 Am J2d Ev § 918.

shopcard. See **union shopcard.**

shopkeeper. One who keeps a shop; a storekeeper.

See **shop.**

shopkeepers' books. See **shopbook; shopbook rule.**

shoplifting. The stealing of goods from a store or a shop. 32 Am J1st Larc § 45.

shopping center. A new category of business district differing in substantial respects from other groupings of retail establishments, being characterized by off-street parking facilities and a uniform plan or scheme of development. Anno: 76 ALR2d 1173.

See **supermarket.**

shop-right rule. The rule that an employee who, during his hours of work and while working with his employer's materials and appliances, or with the assistance of helpers provided by the employer, conceives and perfects an invention which he patents, must accord to his employer a right or license to use the invention. *United States v Dubilier Condenser Corp.* 289 US 178, 77 L Ed 1114, 53 S Ct 554, 85 ALR 1488.

shop steward. The representative of a labor union in a factory or industrial plant, his primary duty being to see that union rules are followed and attention given to the grievances of employees. A labor union representative whose duty it is to keep a record of all non-union men on works where he is employed and to present their names at the branch meeting. *State v Dyer*, 67 Vt 690, 704, 32 A 814.

shore. The margin of the sea; that space of land which is alternately covered and left dry by the rising and falling of the tide the space between high and low-water mark. 56 Am J1st Wat § 448. The area lying between the lines of high water and low water, over which the tide ebbs and flows. 12 Am J2d Bound § 13. Beach. The space between high and low water marks of a watercourse. *State ex rel. Ellis v Gerbing*, 56 Fla 603, 47 So 353.

As applied to inland waters, the word "shore" generally has application only to large bodies of water, as lakes and large rivers, and means the land adjacent thereto. *Axline v Shaw*, 35 Fla 305, 17 So 411.

See **by the shore**.

shore lands. The area known as the shore.

As applied to lands along the margin of a tideless body of water, below the ordinary high-water mark but without any defined outer boundary, the term "shore lands," has been construed as including the land to the line of navigability. *Seattle v Oregon & W. R. Co.* 255 US 56, 65 L Ed 500, 41 S Ct 237.

shore leave. Leave granted a sailor or seaman to go ashore for recreation.

shore line. The margin of the shore. The shore. *Peoria v Central Bank*, 224 111 43, 79 NE 296.

shore of watercourse. See **shore**.

shore pay. Pay for service in the Navy other than sea service. 36 Am J1st Mil § 71.

shoring up. Bracing; supporting a building with props. Supporting a vessel out of water with props. Covering an opening in granary, railroad car, or bin to prevent contents from spilling. Supporting the sides of an excavation with boards, masonry, or props.

See **notice to shore up**.

short. Not extensive in length, whether of distance or time. The condition of one who has sold short. Lacking funds, particularly funds which one should have according to a record or book of account.

The word "short" may not always impute dishonesty or criminality, but it may be so used. Where a person is employed to sell merchandise and collect therefor and turn in his collections to his employer, to charge that he is "short" is to impute dishonesty. *Swift & Co. v Gray* (CA9 Cal) 101 F2d 976.

See **short sale**.

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short bill. See **short form**.

short cause. A cause the trial of which will presumably be brief.

short-cause calendar. A trial calendar of cases which will not require for trial a period of time exceeding a prescribed limit. 53 Am J1st Trial § 6.

short complaint. See **short form**.

short deal. See **scalp**; **short sale**.

short entry. A term of art used by bankers for the notation made in a customer's bank book respecting a note deposited by the customer for collection, indicating that the amount of the note is not to be carried to the general balance of the customer until collection has been made. 10 Am J2d Banks § 411.

shortest and best route. In reference to locating a highway, the shortest practicable way, not necessarily a way on a straight line. Anno: 63 ALR 516, 518.

short form. A relatively simple form of indictment prescribed by statute. 27 Am J1st Indict § 53. A form of pleading authorized by statute or rule of practice in stating a cause of action upon a promissory note, bill of exchange, or other instrument for the unconditional payment of money only. 12 Am J2d B & N § 1100. A bill in equity filed in a United States court which alleges only the ultimate facts of the plaintiff's cause of action. *Mumm v Jacob E. Decker & Sons*, 301 US 168, 81 L Ed 983, 57 S Ct 675.

shorthand. A writing in characters specially designed for speed.

short haul charges. A matter of discrimination by a common carrier in charging or receiving a greater compensation in proportion for a shorter than for a longer distance of transportation over the same line or route in the same direction. 13 Am J2d Car § 205.

shortly after. As the phrase appears in an extension of time of payment of a note, within a reasonable time after the date specified. *Trinley & Sons v Goiter*, 93 NH 268, 41 A2d 243.

short measure. The offense of a seller of goods or merchandise of a particular measure in delivering a short measure for the full price. 56 Am J1st Wts & L § 46.

short notice. See **short summons**.

short order. An order of court the time for serving which has been shortened by the court. A simple meal to be prepared and served quickly at a restaurant.

short period year. A year for which a tax return is filed, which actually is a period of less than one year but treated as a full tax year, under certain conditions such as a change by a taxpayer of his annual accounting. Internal Revenue Code § 443(a).

short sale. A sale of that, usually corporate stock, which the seller does not at the time possess, but which, by the future date or time agreed upon for its delivery to the purchaser under the terms of the contract, the seller must in some way acquire for the purpose of such delivery. *Provost v United States*, 269 US 443, 70 L Ed 352, 46 S Ct 152.

In a short sale, ordinarily the customer does not actually produce the stock for delivery; the broker borrows the securities or furnishes his own. The broker charges the price of the borrowed stock to the customer, and the account is carried until the customer orders the broker to repurchase the securities, after which an adjustment is made between the broker and customer on the difference between the selling and purchasing price. 12 Am J2d Brok § 116.

The margin in such case is the sum of money deposited with the broker to protect him from any loss he might be subjected to by reason of a subsequent rise in the market price of the stock.

short sale against the box. See **sale against the box.**

short statute of limitations. A statute of limitations which prescribes a very short limitation period for reasons of public policy, as in the case of a statute fixing the period of time within which the validity of a tax sale may be questioned. 51 Am J1st Tax § 1155.

short summons. A summons in which the time within which the defendant is required to appear and answer is shorter than the time which is usually required.

short-swing profit. A profit made on the sale of securities held for only a short time after purchase.

short swing speculation. The purchase and sale, or sale and purchase, of corporate stock within a period of less than six months. 15 USC § 78p(b) (involving unfair use of information by corporate "insiders .)

short ton. The usual ton of 2000 pounds as distinguished from the long ton of 2240 pounds. 19 USC § 1202, Headnote 9(e).

short weight. The offense of a seller of goods or merchandise of a particular weight in delivering a short weight for the full price. 56 Am J1st Wts & L § 46.

shotgun quarantine. A quarantine maintained by means of an armed force. *Wilson v Alabama G. S. R. Co.* 77 Miss 714, 28 So 567.

shotgun wedding. A slang term for a wedding under duress of threatened prosecution for seduction or bastardy.

shoulder of highway. The part of a highway between the paving or traveled part of the way and the gutter or drainage ditch. The part of a highway immediately adjacent to and lending support to the paved or surfaced portion.

should or could test. The two types of questions presented to a court upon review of an administrative determination: (1) questions relating to whether the particular type of act could be done by the particular type of agency in the manner in which it was done-that is, does the law permit the act which was done; and (2) questions relating to whether the act should have been done-that is, questions whether the conclusions of the agency were correct, whether its act was proper or justified, and whether the facts or evidence warrant it. 2 Am J2d Admin L § 611.

show. Noun: An exhibition by way of public entertainment, whether in drama on the stage or in a motion picture, a musical comedy, burlesque, ballet, etc. A circus. Verb: To demonstrate. To make apparent or clear, either to the eye or to the understanding or to both, by display, by evidence, by illustration, or by other means. *Kenyon v Crane*, 28 Cust & Pat App (Pat) 1208, 120 F2d 380. To come in third in a race, particularly a horse race.

As the noun is used in connection with amusements, it has been held to apply only to out-of-doors sports, and to be inapplicable to a moving

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picture exhibition. *State v Chamberlin*, 112 Minn 52, 127 NW 444.

show boat. A vessel used primarily for entertainment purposes but nevertheless within admiralty jurisdiction. 2 Am J2d Adm § 30.

show cause. To comply with a rule or order of the court to show cause by offering law and facts to influence the court in its decision of the point before it.

show cause order. See **order to show cause.**

showering. The practice of sprinkling and cooling livestock with a spray of water when they are shipped in freight cars.

This is usually done by holding a pipe from an elevated tank, with one end of the pipe flattened, so that the water is thrown through the openings in the cars as they slowly pass. *Peck v Chicago Great Western Railway Co.* 138 Iowa 187, 115 NW 1113.

shower room. A room in an inn or hotel, furnished and equipped as a place where patrons may enjoy a shower bath. Anno: 18 ALR2d 976, 977.

showroom. A room in a hotel wherein a traveling salesman may display his samples to customers. 29 Am J Rev ed Innk § 47.

shrew. A small mammal, having a reputation for malignancy. A common scold. 15 Am J2d Com S § 2.

shrievalty. The office or jurisdiction of a sheriff; the period of a sheriff's term of office.

shrinkage. Contraction in weight or bulk. A loss of weight or bulk of a shipment while in transit. 14 Am J2d Car § 526.

shrub. A bush, being distinguished from a tree in having two or more stems in place of a single trunk. A kind of nursery stock. 39 Am J11st Nurs § 1.

shuffle board. A game in which discs are propelled by a cue toward squares with numbers whereby the scoring is accomplished.

shun pike. A road intended merely to enable travelers to evade a tollgate. 54 Am J1st Turn & T R § 17.

shunt. To move something, especially to the side; to divert an electric current. *Weston Electrical Instrument Co. v Empire Electrical Instrument Co.* (CC NY) 131 F 82.

shunting cars. Switching railroad cars. 35 Am J1st M & S § 233.

See **kicking cars.**

shutdown. Termination of work of production in a factory.

A mill or works is shut down when its machinery is not being operated, although its employees may be engaged in loading its product for shipment. *McKenzie v Scottish Union & Nat. Ins. Co.* 112 Cal 548, 44 P 922.

shut-in royalty. A royalty paid by the lessee under an oil and gas lease to keep the lease in force in the absence of production. Anno: 96 ALR2d 348.

shut-off valve. A valve for cutting off gas supply to stove or furnace. 26 Am J2d Electr § 236.

shyster. A trickish knave, one who carries on a business, especially a legal business, in a dishonest manner. *Gribble v Pioneer Press Co.* 34 Minn 342, 343. An unethical and unscrupulous lawyer.

si. (Latin.) If; although; provided that; as if; whether.

si. (Spanish.) Yes.

Si a jure discedas, vagus eris et erunt omnia omnibus incerta. If you depart from the law, you will be a wanderer, and everything will be uncertain to everyone.

Si alicujus rei societas sit, et finis negotio impositus est, finitur societas. If a matter is a partnership affair, when the transaction or business is concluded, the partnership is at an end. *Griswold v Waddington* (NY) 16 Johns 438, 488.

Si aliquid ex solemnibus deficiat, cum aequitas poscit subveniendum est. If anything is deficient in formal requisites, when equity requires it, it should be supplied.

si aliquid sapit. If he knows anything; if he has understanding.

Si antiquitatem spectes, est vetustissima; si dignitatem, est honoratissima; si jurisdictionem, est capacissima. If you regard its antiquity, it is most venerable; if its dignity, it is most honorable; if its jurisdiction, it is very wide. See 1 Bl Comm 160.

Si assuetis mederi possis nova non sunt tentanda. If you can be cured by customary remedies, new ones should not be tried.

sib. A contraction of sibling.

sibling. Kin, especially a brother or sister. Precisely, one of two or more persons having the same parents, born at different times.

sic. So; thus; simply; in this manner.

See **et sic.**

sic ad judicium. See **et sic ad judicium.**

sic ad patriam. See **et sic ad patriam.**

Sic enim debere quem meliorem agrum suum facere, ne vicini deteriorem faciat. (Roman law.) Everyone ought so to improve his own land that he may do no injury to his neighbor.

sic fecit. See **et sic fecit.**

sic hic. So here.

Sic interpretandum est ut verba accipiantur cum effectu. An expression or provision should be so construed that the words may have effect.

sic jubeo. I so order or command.

sick. Adjective: Affected with or suffering from physical or mental disorder; more or less disabled by disease or bad health; indisposed; ill. Nauseated. Upset. Noun: Persons who are sick, considered as a class.

See **sickness.**

sick benefits. Payments made under a policy of health insurance; payments made under a mutual benefit certificate providing health insurance.

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Fringe benefits provided by a corporation for its employees. 19 Am J2d Corp § 1055.

sick leave. A leave of absence granted a civil service officer or employee, sometimes with pay, on account of his sickness or physical disability. 15 Am J2d Civ S § 30.

sickness. The condition of being sick. A condition interfering with one's usual activities. Manhattan Life Insurance Co. v Francisco, 84 US (17 Wallace) 672, 21 L Ed (US) 698. Any affection of the body which deprives it temporarily of the power to fulfill its usual functions. Doody v Davie, 77 Cal App 310, 246 P 339. A diseased condition which has advanced far enough to incapacitate. Milam v Norwich Union Indem. Co. 107 W Va 574, 149 SE 668.

See **illness; last sickness; serious illness; sick.**

sick pay. Pay received by an employee under a wage continuation plan, for time when sickness rendered work by him impossible. 19 Am J2d Corp § 1055.

si constet de persona. If it clearly appears as to the person.

si contingat. If it happens.

sic pendet. See **et sic pendet.**

sic subscribitur. It is so subscribed.

sic ulterius. See **et sic ulterius.**

sicut alias. As on another occasion.

sic utere tuo ut alienum non laedas. So use your own property as not to injure that of another. A maxim of the common law. 38 Am J1st Negl § 15. A maxim applicable to adjoining landowners and to a large extent governing in determining the rights, duties, and liabilities of adjoining landowners in respect of each other. 1 Am J2 Adj L § 2. A principle constituting to a large extent the foundation of the police power. 16 Am J2d Const L § 267.

sic uti suo ut non laedat alienum. To use his own in such manner that he does not injure another. Rylands v Fletcher (Eng) LR 3 HL 330.

sicut me Deus adjuvet. So help me God.

Sicut natura nil facit per saltum, ita nec lex. Just as nature does nothing by a leap, so neither does the law.

sic volo. I so will it; I will it thus.

side. Margin, edge, or border. An area or field in a graphic sense, as equity side.

See **civil side; equity side; plea side.**

side-bar reports. Reports of opinions of trial courts.

side-bar rules. A term of older English practice for rules or orders rendered by the court without application therefor formally made, for example, a rule to plead within a prescribed time.

sidecar. A small car attached to the side of a motorcycle for carrying a passenger, the same being supported by a third wheel. *Neighbors v Life & Casualty Ins. Co.* 182 Ark 356, 31 SW2d 418.

side judge. An associate judge.

side lights. Lights on the side of a motor vehicle of more than normal width, marking the extreme left side of the vehicle, required by statute in some jurisdictions. Anno: 21 ALR2d 77-84, §§ 24-26.

side lines. The margins of something, such as a highway. 12 Am J2d Bound § 52. Lines on building lots established, sometimes by municipal regulation, but more often by restrictive covenants, to mark the limits of construction in the direction of either side of the lot. 20 Am J2d Cov § 238. The boundary lines of a mining claim which do not cross the vein, running on each side of it. 36 Am J1st Min & M § 90.

sidereal day. A day measured by the transit of certain stars. A day which begins at the noon or middle of the "day," in common parlance. 52 Am J1st Time § 14.

A mean sidereal day is 23 hours, 56 minutes, 4.091 seconds of mean solar time. *Rochester German Ins. Co. v Peaslee's Gaulbert Co.* 120 Ky 752, 87 SW 1115, 89 SW 3.

sidereal month. A month as determined by changes in the position of the moon relative to certain stars. *Guaranty Trust & S.D. Co. v Buddington*, 27 Fla 215, 9 So 246.

side restriction. Provisions in zoning ordinance stipulating the minimum side area of the yard or lawn, or the percentage of the area of a lot that may be occupied by the building thereon. 58 Am J1st Zon § 52.

side street. A street intersecting a main or other street with heavy traffic.

sidetrack. A railroad track used for loading, unloading, reloading, storing, and switching railroad cars. 44 Am J1st R R § 231. A railroad track upon which one train is switched to permit another train to pass on the main track. A spur track for the benefit of a factory or industrial plant. Anno: 4 ALR 530.

See **spur track**.

sidewalk. A walkway along the margin of a street or other highway, designed and prepared for the use of pedestrians, to the exclusion of vehicles. 25 Am J1st High § 7.

As the word is used in the United States, it does not mean a walk or way constructed of any particular kind of material, or in any special manner, but ordinarily it means that part of the street of a municipality which has been set apart and is used for pedestrians, as distinguished from that portion set apart and used for animals and vehicles. *Graham v Albert Lea*, 48 Minn 201, 205.

sidewalk elevator. See **outside elevator**.

sidewalk stand. A booth or small structure standing upon the sidewalk for commercial or other purpose calling for contact with persons using the way. 25 Am J1st High § 306.

siding. The covering of the outer surface of the wall of a house or other-structure. A sidetrack.

Si duo in testamehto pugnancia reperientur, ultimum est ratum. If in a will two repugnant clauses are found, the latter one controls.

siens. Scions; descendants.

Si equam meam equus tuus pregnantem fecerit, non est tuum sed meum quod natum est. If your horse shall cause my mare to be with foal, the offspring is not yours, but mine.

si fecerit te securum. If he shall have given you security,-an original writ di-

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recting the sheriff to cause the defendant to appear in court, without any option given him, provided the plaintiff gives the sheriff security effectually to prosecute his claim. See 3 Bl Comm 274.

sight. The power to see. The faculty of vision. Act of seeing; perception of objects by the instrumentality of the eyes; view. Tracey v Standard Acci. Ins. Co. 119 Me 131, 109 A 490, 9 ALR 521, 529. A grand or spectacular view. Something worth seeing. Spoken in satire, something not pleasing to the sight. The observation of a bill of exchange or draft by the drawee upon presentation for acceptance.

See **after sight; at sight; loss of sight.**

sight bill. Same as **sight draft.**

sight draft. A bill of exchange or draft payable upon presentation to the drawee. The equivalent of a check payable upon demand. Mt. Vernon Nat. Bank v Canby State Bank, 129 Or 36, 276 P2d 262, 63 ALR 1133.

A draft payable at or after sight can never become due until after it has been accepted. Musson v Lake (US) 4 How 262, 11 L Ed 967.

sigillare. To affix a seal; to seal.

sigillum. A seal.

Sigillum est cera impressa, quia cera sine impressione non est sigillum... A seal is the wax which has been impressed, because the wax without the impression is no seal. See 2 Bl Comm 306.

sigla. (Roman law.) Abbreviations.

sign. Verb: To append one's name to a document. To subscribe in one's own handwriting. Knox's Estate, 131 Pa 220, 230. To execute or adopt any symbol with present intention to authenticate a writing. UCC § 1-201(39). Noun: A billboard. A placard or board bearing advertising or a public notice. 3 Am J2d Advertg § 13. A symbol, such as a ditto mark indicating repetition of the matter immediately above it. 1 Am J2d Abbr § 9. An indication, such as a condition of the sky indicating the approach of bad weather.

signa. (Civil law.) Evidence addressed to the senses, as, by exhibits offered in court.

signal. A means of communication. An incitement to action or to the avoidance of danger. An indication of an act to follow. A demonstration by a motorist, with hand, light, or mechanical device, to warn other users of his intended movement, such as backing, left turn, etc.

See **railroad signals.**

signalman. A man employed in giving signals, particularly a railroad employee giving signals to trains. 35 Am J1st M & S § 389.

signal post. A post along a railroad track indicating the necessity of giving a signal at that point, especially a whistle for a railroad crossing.

signal torpedo. A cartridge or explosive detonated by the wheel of a locomotive or railroad car when placed on the rail, used by trainmen as a signal. 31 Am J2d Explos § 8.

signare. To sign; to seal.

signatorius annulus. (Civil law.) A seal ring; a signet ring.

signatory. A person who signs a contract or other instrument as a party thereto, or as an agent of a party thereto. A nation which has become a party to a treaty.

signature. The name of a person appended by him to an instrument. The execution of any symbol upon a writing with intent to authenticate the instrument as one made or put into effect by him. UCC § 1-201(39). The authentication of a deed by the grantor's act in writing his name upon the instrument at such a place on the instrument that it will appear as having been affixed for the purpose of authentication. 23 Am J2d Deeds §§ 23 et seq. The affixing of the name of the maker or drawer of a negotiable instrument upon the instrument by such maker or drawer or by his agent or representative. 11 Am J2d B & N §§ 209 et seq. The appending of his name, by a party to a contract in writing, upon the instrument as a manifestation of intent to enter into the contract represented by the instrument. 17 Am J2d Contr § 70. The affixing of a name or mark to an instrument for the purpose of authenticating it as a testamentary disposition of property. 57 Am J1st Wills § 244.

The words "written signature" in a statute requiring such a signature must be construed as requiring that the signature shall be in one's own handwriting, or if he is unable to write, his mark. *Irving v Goodimate Co.* 320 Mass 454, 70 NE2d 414, 171 ALR 326.

signature by mark. The use, normally by an illiterate person, of a mark, such as a cross, even a fingerprint or thumbprint, as a substitute for a complete signature of one's name. A valid signature when witnessed as required by statute. 17 Am J2d Contr § 72; 23 Am J2d Deeds § 25; 57 Am J1st Wills §§ 250-252.

See **his mark.**

signature by proxy. A signature affixed by a proxy.

See **per proc.; proxy.**

signature card. A card containing the signature of a depositor given to a bank as a means of authenticating signatures on paper presented to the bank purporting to be those of the depositor. A card filed with a bank by a depositor, requiring the signatures of certain persons on instruments presented for the purpose of withdrawing funds from the account. 10 Am J2d Banks § 494.

signed. Executed by the affixing of one's signature. *Bensimer v Fell*, 35 W Va 15, 12 SW 1078.

See **sign; signature.**

signed, sealed, and delivered. An expression in a certificate of acknowledgment which states, in effect, the execution of the instrument. 1 Am J2d Ack § 75.

signet. A seal.

See **clerk of the signet; privy signet.**

signet ring. A ring with the wearer's signet or seal upon it.

significant contact. See **most significant contact theory.**

significavit. (Ecclesiastical law.) A writ for the recaption of a person who had been excommunicated.

signify. To make known by signs or words; express; communicate announce; declare. State v Klein, 94 Wash 212, 162 P 52.

signing. See **sign; signature.**

sign manual. A signature. The signature of a monarch on an official document. See 2 Bl Comm 346.

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signum. A sign; a signature; a mark intended as a signature.

Si in chartis membranisque tuis carmen vel historiam vel orationem Titius scripserit, hujus corporis non Titius sed tu dominus esse videris. (Civil law.) If Titius shall have written a poem, a history or a speech on your paper or parchment, not Titius, but you, are deemed to be the owner of the whole. See 2 Bl Comm 406.

si ita est. If it is true. An expression used in writs of mandamus which issued out of the English court of chancery to compel an inferior court to sign a bill of exceptions, and commanding the judge to seal it, if the fact alleged be truly stated. Ex parte Crane (US) 5 Pet 190, 193, 8 L Ed 92, 93.

Si judicas, cognosce. If you judge, first understand.

silage. See **silo.**

silence. Refraining from speech. The absence of speech; not a concealment or representation in itself. 37 Am J2d Fraud § 144.

Mere silence, as a general rule does not amount to an assent, but, taking it together with other circumstances, there are many cases in which silence or acquiescence will warrant a conclusive presumption that assent has been given. Myers v Cook, 87 W Va 265, 104 SE 593.

Silence operates as a waiver only when there is an obligation to speak. Dunbar v Farnum, 109 Vt 313, 196 A 237, 114 ALR 996.

See **estoppel by silence.**

silence of Congress. A doctrine of frequent application in determining whether a state may enact regulations in a field of legislation in the absence of any direct expression of the will of the Federal Government, the rule being that when the subjects of a power are in their nature national or admit of one uniform system or plan, exclusive regulation by Congress is presumed to be required, and the failure of Congress to exercise the power of regulation is deemed to be an expression of its will that the subject should remain free from restrictions or impositions upon it by the several states. 16 Am J2d Const L § 209.

Silent leges inter arma. The laws are silent in warfare.

"The maxim expresses a fact, and a necessary fact, rather than a sentiment or principle." See argument of counsel in Prize Cases (US) 2 Black 635, 17 L Ed 459, 465.

silent partner. Same as **dormant partner.**

silent partners. Persons not known to be partners and not appearing to the public as partners, but who are nevertheless partners, as by partaking of profits, to all intents and purposes or, at least, in respect of third persons. 40 Am J1st Partn § 15.

silent policeman. A mechanical device placed at an intersection of streets for controlling traffic. Aaronson v New Haven, 94 Conn 609, 110 A 872, 12 ALR 328.

silica. A mineral found in quartz and sand. 36 Am J1st Min & M § 5.

silicosis. A chronic and serious disease of the lungs, caused by the inhalation of dust, especially dust of silica. Anno: 68 ALR2d 196.

silos. A pit or structure in a cylindrical form, especially one used for the storing of a green crop and the curing of such into a form known as silage, of special value as feed for livestock.

silva caedua. Wood or timber preserved for annual cutting.

silver. A precious metal used in the coining of money, and in various arts, crafts, and industries.

See **ale-silver; aver silver; bullion; green silver; herring silver; king's silver; plough silver.**

silver certificates. Certificates issued by the United States Government to circulate as money and secured by silver in the treasury.

silver coin. Money coined in part at least from silver; specie. Belford v Woodward, 158 Ill 122, 41 NE 1097.

silver coinage. The coinage of silver as provided by statute and with the amount of silver in particular coins as provided by statute. Bronson v Rodes (US) 7 Wall 229, 19 L Ed 141.

silver fox. A fox noted for the value of its pelt. A fox which can be bred, raised, and pelted in captivity. Fromm Bros. v United States (DC Wis) 35 F Supp 145.

sim. Contraction of *similis*. Resembling; similar.

See **et sim.**

Si meliores sunt quos ducit amor, plures soot corrigit timor. Although love guides those who are better, fear corrects more.

similar. Having a resemblance in many respects to, nearly corresponding with, is somewhat like, or has a general likeness to, some other thing. Japan Import Co. v United States, 24 Cust & Pat App 167, 86 F2d 124; Fletcher v Interstate Chemical Co. 94 NIL 332, 110 A 709, 17 ALR 92, affd 95 NIL 543, 112 A 887, 17 ALR 92. Something less than being an exact duplicate of something else. 13 Am J2d Bldg Contr § 10. Sometimes, depending upon the context in which it appears, meaning identical or exactly alike. Anno: 17 ALR 94.

similarly. In like manner. In manner substantially the same. *General Motors Corp. v Read*, 294 Mich 558, 293 NW 751, 130 ALR 429.

simile materia. See **in simile materia.**

similis. (Latin.) Resembling. Similar.
See **et sim.**

similiter. The like. A formal statement in writing whereby a party expresses his acceptance of an issue tendered by the pleading of his adversary.

A *similiter* is not in strictness a part of a pleading, but common-law practice regarded it as a vital formality. *Haling v Florida Sav. Bank*, 19 Fla 695, 705.

similiter dicere. To say the like; to homologate. *Hecker v Brown*, 104 La 524, 527, 29 So 232.

similitude provisions. Provisions in tariff schedules intended to charge articles not enumerated therein with the duty applicable to articles which they most resemble. 21 Am J2d Cust D § 51.

Similitudo legalis est casuum diversorum inter se collatorum similis ratio; quod in uno similibus valet, valebit in altero. Dissimilium dissimilis est ratio.

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Legal similarity is a similar reason of different cases compared with one another, and what prevails in one similar case prevails in another. The reason of dissimilar cases is dissimilar.

simonia. Same as **simony.**

simony. The crime of buying or selling ecclesiastical preferment, or the corrupt presentation of anyone to an ecclesiastical benefice for money or reward. *State v Boswell*, 40 Neb 158, 58 NW 728.

The word derives from Simon Magus, who was found to have purchased holy orders. It was not a common-law offense, but was wholly an ecclesiastical one. See 2 Bl Comm 278.

Si mortuo viro uxor ejus remanserit, et sine liberis fuerit, dotem suam habebit—si vero uxor cum liberis remanserit, dotem quidem habebit, dum corpus suum legitime servaverit. If upon her husband's death his wife shall survive him, and she shall be without children, she will have her dower -but if she shall survive him with children she shall have dower while she lives in propriety. See 2 Bl Comm 133.

simple. Free of complexity. Easily understood. Unmixed. Not aggravated.
See **fee simple.**

simple annuity. Same as **straight annuity.**

simple assault. An attempt to do bodily harm to a person which fails, falls short of doing the harm, touching the body or doing the battery. For instance, striking at another within striking distance, but not striking him. *State v Lightsey*, 43 SC 114, 115, 20 SE 975.

simple average. Same as **particular average.**

simple blockade. A blockade which may be established by a naval officer, acting upon his own discretion or under direction of superiors, without governmental notification.

In the case of a simple blockade, captors are bound to prove its existence at the time of the capture; while in the case of a public blockade, the claimants are held to proof of discontinuance in order to protect themselves from the penalties of attempted violation. *Hunter v United States* (US) 2 Wall 135, 17 L Ed 796.

simple bond. An obligation whereby the obligor binds himself, his heirs, executors, and administrators to pay a certain sum of money to a named obligee on demand or on a day certain. *Burnside v Ward*, 170 Mo 531, 71 SW 337.

simple confession. A plea of guilty in a criminal prosecution. *State v Willis*, 71 Conn 293, 309, 41 A 820.

simple contract. A parol contract; an oral contract; a written contract not under seal. *Perrine v Cheeseman*, 11 NJL 174. Any contract other than a specialty or a contract of record. *Western Union Tel. Co. v Taylor*, 84 Ga 408, 11 SE 396.

simple homage. A mere acknowledgment of tenure. See 1 Bl Comm 367.

simple interest. Interest computed on principal only. 30 Am J Rev ed Int § 2. The straight interest computed on the principal sum from the time when by the terms of the contract interest is to commence, to the time of payment or judgment. *Hovey v Edmison*, 3 Dak 449, 460, 22 NW 594.

simple larceny. A plain theft unaccompanied by any other atrocious circumstance. 32 Am J1st Larc § 3. The felonious taking and carrying away by man or woman of the personal goods of another, neither from the person, nor by night in the house of the owner. *State v Chambers*, 22 W Va 779.

simple license. The grant of authority, without reward or consideration, to do a particular act, or series of acts, on another's land, without passing any interest or estate in the soil.

Such a license is revocable at the pleasure of the licensor, but not to make the licensee responsible in trespass or otherwise for acts done on the land in pursuance of the license. Neither is it revocable where the grantee has been induced to expend his means or money towards its enjoyment, without reimbursing him for what has been thus expended. *Wynn v Garland*, 19 Ark 23.

simple loss payable clause. A clause in a policy of insurance on property subject to mortgage or lien, covering loss by fire, windstorm, flood, or other peril, providing for the payment of the proceeds of the insurance in the event of a loss to the named mortgagee or lienor as his interest may appear, but without conditions serving to give the mortgagee or lienor a right of recovery greater than that of the mortgagor or hence, so that a breach of a condition of the policy by the mortgagor or lienee which precludes him from recovering against the insurer likewise precludes a recovery by mortgagee or lienor. *Collinsville Sav. Soc. v Boston Ins. Co.* 77 Conn 676, 60 A 647.

simple negligence. Negligence which is neither gross nor wanton; the failure to use ordinary care. Differing from gross negligence in degree, but not in kind. See *Semons v Towne*, 285 Mass 96, 188 NE 605.

simple obligation. See **simple bond**; **simple contract**.

simple socage. Free socage; that is, land tenure by services which were certain, free, and honorable.

simple trust. A simple conveyance of property to one upon trust for another, without further specifications or directions.

In such case the law regulates the trust and the cestui que trust has the right of possession and of disposing of the property, and he may call upon the trustee to execute such conveyances of the legal estate as are necessary. (Perry on Trusts.) *Cone v Dunham*, 59 Conn 145, 20 A 311.

simplex. (Latin.) Simple. Not complex. See **feudum simplex**.

Simplex commendatio non obligat. Mere commendation is not binding.

See **seller's talk**.

simplex dictum. A mere allegation.

Simplex et pura donatio dici poterit ubi nulla est adjecta conditio nec modus. A gift can be said to be pure and simple when no condition or modification is annexed to it.

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simplex justitarius. Simple justice.

simplex loquela. A mere allegation or matter of complaint.

simplex obligatio. A simple obligation.

See **simple bond**; **simple contract**.

simplex peregrinatio. Simple pilgrimage.

Simplicitas est legibus amica, et nimia subtilitas in jure reprobatur. Simplicity is a friend to the law and too much subtlety is disapproved in the law.

simpliciter. Simply.

Simplification of Fiduciary Security Transfers. One of the uniform statutes. Am J2d Deskbook, Document 129.

simulated. Counterfeited; feigned; pretended.

If the general impression which the article makes when seen alone is such as is likely to lead the ordinary purchaser to believe it to be the original article, there is an unlawful simulation amounting to unfair competition. *Chesebrough Mfg. Co. v Old Gold Chemical Co.* (CA6 Tenn) 70 F2d 383.

simulatio latens. Simulated or feigned illness.

simulation. See **simulated**.

simul cum. Together with.

simul et simul. Together and at the same time.

simultaneous death. A death so contemporaneous with the fatal injury as to be instantaneous in the sense that the victim endured no pain and suffering. *Moffett v Baltimore & Ohio R. Co.* (CA4 W Va) 220 F 39. The death of two or more persons in a common disaster under circumstances such that it is impossible to determine the first to die or the last to survive. 57 Am

J1st Wills § 1617. The death of ancestor and heir apparent occurring under such circumstances that there is no evidence as to which survived the other. 23 Am J2d Desc & D § 103.

Simultaneous Death Act. A uniform law which provides that where title to or the devolution of property depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of, except as otherwise provided in the act, as if he had survived. 9C ULA 160; Anno: 20 ALR2d 236, § 1; 22 Am J2d Dth § 297.

simultaneously. Occurring together; occurring at the same time. Anno: 20 ALR2d 235.

The word does not necessarily mean at the very same instant, but may, and often does mean at substantially the same time. *Cloyes v Middlebury Electric Co.* 80 Vt 109, 66 A 1039.

The word as used in the Uniform Simultaneous Death Act means at the same instant rather than at substantially or approximately the same time. Anno: 20 ALR2d 237.

simultaneous sentences. Sentences for more than one offense, running concurrently. 21 Am J2d Crim L § 547.

simultaneous trusts. Reciprocal trusts.

since. Adverb: After. Not always limited to the time between the present and a past event, or to a space of time between two certain past events, and some times embracing a future time. 52 Am J1st Time § 27. Preposition: During; at a time after; from and after. 52 Am J1st Time § 27.

sincere. Without guile; without pretense; without fraud or deceit.

sine. Without.

sine animo remanendi. Without intent to remain.

sine animo revertendi. Without an intention of returning; without intending to return.

sine assensu capituli. A writ for a church corporation to recover its lands which had been wrongfully conveyed.

sine brevi. See **debitum sine brevi.**

sine consideratione curiae. Without having been considered or passed upon by the court.

sine cura. Without care; charged with no duty.

sinecure. A position of profit entailing little, if any, effort or responsibility. A benefice without cure of souls.

sine damno. See **injuria sine damno.**

sine day adjournment. See **adjournment sine die.**

sine decreto. Without judicial sanction.

sine die. Without day; finally; without any time set for further consideration.

sine hoc quod. Without this, that.

sine injuria. See **damnum sine injuria.**

sine liberis. Without children.

sine numero. Without number or limit.

Sine possessione usucapio procedere non potest. Prescription cannot exist without possession.

sine prole. Without issue.

sine qua non. Without which it is not; an indispensable requisite.

Sine scripto jus venit, quod usus approbavit, nam diuturni mores consensu utentium comprobati legem imitantur. Law comes without any writing, that which usage has established, for long established customs sanctioned by the consent of those adopting them represent law. See 1 Bl Comm 74.

sine spe revertendi. Without the hope of returning.

sine spe revertendi et sine animo revertendi. Without the hope of returning and without the intention of so doing.

sine vi aut dolo. Without force or fraud.

single. Standing alone. One only. Unmarried. Hill v

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Moore, 85 Tex 335, 341, 119 SW 162. A room in hotel or motel for one person.

single adultery. Adultery committed where only one of the parties to the offense is a married person. Hunter v United States (Wis) 1 Pinney 91.

single bill. Same as bill obligatory.

single bond. Same as single bill.

single combat. A duel; a battel.

single creditor. A term of art in marshaling assets; a creditor having a lien upon only one fund or item of property. Newby v Norton, 90 Kan 317, 133 P 890.

single dwelling house. A dwelling house for a single family. 20 Am J2d Cov § 196.

single dwelling restriction. A restriction in a covenant contained in a deed or land contract which limits construction upon the premises to single dwellings, that is one-family dwellings, as distinguished from apartment houses and other multiple dwellings. 20 Am J2d Cov § 196.

single family. See **family.**

single letter. An older term of the postal laws for a letter consisting of one sheet. *Williams v Wells, Fargo & Co. Express* (CA8 Ark) 177 F 352.

single man. A man of marriageable age who has never been married. A man of marriageable age presently unmarried.

single-member district. A legislative district having one representative in the legislature. 25 Am J2d Elect § 25.

single original. An instrument not in duplicate.

single premium annuity contract. An annuity contract for which the purchaser pays a single premium, that is, a premium in one lump sum. 4 Am J2d Annui § 1.

single publication rule. The principle that an injury occurs and a cause of action arises from a single publication of a defamatory article. 16 Am 12d Confl L § 72.

Under the single publication rule, any single integrated publication, such as one edition of a newspaper or magazine, or one broadcast, is treated as a unit, giving rise to only one cause of action of defamation, invasion of privacy, or similar tort. *Hartmann v Time, Inc.* (CA3 Pa) 166 F2d 127, 1 ALR2d 370.

single shot. In the vernacular of practical politics, the strategy whereby in an election where several judges of a court or several members of a board are to be elected, a minority may succeed in electing one judge or one member by voting for their candidate and no others.

single-story dwelling. A dwelling house having only one floor level. Anno: 92 ALR2d 886, § 5(a).

single subject. One subject.

As the term is used in the common constitutional provision requiring that a statute shall contain but one subject which shall be clearly expressed in its title, where all the provisions of the statute fairly relate to the same subject, have a natural connection with it, or are the incidents or means of accomplishing it, then the subject is "single," and if it is sufficiently expressed in the title, the provision is satisfied. *State v Smith*, 233 Mo 242, 135 SW 465.

single tax. The theory that all revenue for the support of government should be derived from a tax on a single subject, that is, real property.

single tax club. An organization devoted to the promotion of the theory of single tax. Anno: 138 ALR 460.

single woman. A female of marriageable age who has never been married. A woman of marriageable age presently unmarried. *Devinney v State* (Ohio) Wright 564.

singular. One of a kind. Unique. Denoting one only.

See **all and singular**.

singulariter. Singly; one at a time.

Singuli in solidum tenentur. Each one is bound or obligated for the whole.

sink. A fixture in a dwelling house, factory, office building, or other structure, constituting a part of the plumbing, wherein water may be run and discharged as desired. 35 Am J2d Fixt § 123. A depression in land wherein surface water is collected, sometimes becoming a swamp or bog.

sinking fund. A fund accumulated by a debtor, usually a corporation or public body, and invested in such a manner that its gradual accumulations will enable it to meet and wipe out the debt at maturity thereof. *Huron v Second Ward Sav. Bank* (CA8 SD) 86 F 272. A fund arising from particular taxes, imposts, or duties which is appropriated toward the payment of the interest accruing on a public debt and for the gradual payment of the principal. 43 Am J1st Pub Sec § 4. A cumulative security for the payment of the debt with which it is connected, and especially earmarked for the extinction of the debt. *Clark v Philadelphia*, 328 Pa 521, 196 A 384, 115 ALR 212. A public fund maintained by the state for the purpose of guaranteeing the reimbursement of the state, county, township, municipal, school corporation or other public agency in the event of the loss of public funds caused by the failure of the depository. 42 Am J1st Pub F § 18.

sinking fund tax. A tax which is raised to be applied to the payment of the principal and interest of a public debt or obligation. *Brooks v Brooklyn*, 146 Iowa 136, 124 NW 868.

Si non appareat quid actum est, erit consequens ut id sequamur quod in regione in qua actum est frequentatur. If it does not appear what was done, the consequence will be that we shall follow that which is commonly done in the locality in which it was done.

si non omnes. A writ which lay to assemble the justices, under which two or more of the justices were empowered to hold court if all the justices of the court were not present.

Si nulla sit conjectura quae ducat alio, verba intelligenda sunt ex proprietate, non grammatica sed populari ex usu. If there is no conjecture which leads to a different conclusion, words are to be understood according to their proper sense or meaning; and not according to a grammatical usage, but according to a popular one.

Si plures conditiones ascriptae fuerunt donationi conjunctim omnibus est parendum; et ad veritatem copulative requiritur quod utraque pars sit vera, si divisim, quilibet vel alteri eorum satis est obtem-

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perare; et disjunctivis, sufficit alteram partem esse veram. If several conditions of a gift have been written in the conjunctive, they must all be performed; and, as to their truth, it is required that each part shall be true taken jointly; if they are separately written, it is sufficient to comply with any one or other of them, and as they are disjunctive, it is sufficient if either part be true.

Si plures sint fidejussores, quotquot erunt numero, singuli in solidum tenentur. If there are several sureties, however great their number, each one is jointly bound for the whole.

si prius. If before.

Si quidem in nomine, cognomine, praenomine, agnomine legatarii testator erraverit, cum de persona constat nihilominus valet legatum. (Civil law.) If any testator shall have erred in the name, the cognomen, the praenomen or title of a legatee, the legacy will nevertheless be valid when the person intended is made clear.

Si quid universitati debetur, singulis non debetur; nec, quod debet universitas, singuli debent. If anything is owing a corporation, it is not due each member; nor do the individuals owe what the corporation owes. See 1 Bl Comm 484.

si quis. If anyone. A term of art for a public notice, of an ecclesiastical matter particularly.

Si quis cum totum petiisset partem petat, exceptio rei judicatae vocet. If anyone sue for a part when he should have sued for the whole, the judgment is res adjudicata. *Faurie v Pitot* (La) 2 Mart 83.

Si quis custos fraudem pupillo fecerit, a tutela removendus est. If any guardian commits a fraud against his ward, he should be removed from his guardianship.

Si quis praegnantem uxorem reliquit, non videtur sine liberis decessisse. (Civil law.) If anyone has left his wife while she was pregnant, he is not deemed to have died without children.

Si quis rem dat et partem retinet, illa pars quam retinet semper cum eo est, et semper fuit. If anyone grant anything and reserve a part, that part which he reserves is in him, and always will be. *Greenleaves Lessee v Birth* (US) 6 Pet 302, 310, 8 L Ed 406, 409.

si quis sine liberis decesserit. If anyone shall have died without children.

Si quis unum percusserit, cum alium percutere vellet, in felonia tenetur. If anyone kill one man when he intended to kill another, he is held for felony.

sirup. Another spelling for syrup.

sister. A woman or girl related to one by having been born of the same parents. A relative in the second degree according to the civil law method of computing degrees of kinship which prevails in most American jurisdictions. 23 Am J2d Desc & D § 48.

See **half sister**.

sister-in-law. The wife of one's brother or the sister of one's spouse. In common usage, also inclusive of the wife of one's husband's or wife's brother.

sister state. Another state of the United States.

Si suggestio non sit vera, literae patentes vacuae sunt. If the suggestion is not true, the letters patent are void.

sit. To preside as a judge. To be open for the business of the court.

See **sitting of court**.

sit-down strike. A strike wherein the employees do not leave the plant but refrain from work. Anno: 123 ALR 656; 83 L Ed 691.

site. A place where something stood in the past, as the site of Carthage. A prospective location for something, particularly a public building or industrial plant.

See **county site**.

si te fecerit securum. If he shall have made you secure; if he give you security. See 3 Bl Comm 274.

sit in banc. Same as **sit in bank**.

sit in bank. To hold a session of a court at which all of the judges of the court are present.

sit in camera. To hold a session of court in chambers or privately.

sit in misericordia. Let him be in mercy, -meaning, let him be amerced or fined. See 4 Bl Comm 379.

sitio. See **sitio ganado mayor.**

sitio ganado mayor. A technical Spanish and Mexican legal term, well established, defined, and known as a section or township in the surveys of the United States.

It was a square, the four sides of which each measured five thousand varas. A conveyance of a "sitio" deeded as certain a form and quantity of land as a conveyance of a section. *United States v Cameron*, 3 Ariz 100, 21 P 177.

Sit quilibet homo dignus venatione sua, in silva, et in agris, sibi propriis, et in dominio suo; et abstineat omnis homo a venariis regiis, ubicunque pacem eis habere voluerit. Let every man be strict in his hunting in his own woods and fields and within his own manor; and let every man abstain from the royal hunting preserves if he should wish to have peace. See 2 Bl Comm 415.

sitting. See **sit**; **post-terminal sittings**; **sitting of court.**

sitting in bank. See **sit in bank.**

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sitting of court. A session of court. A term of court.

"The district judges in their sittings in the several counties, for the trial of issues of fact, attended as they were by clerks, sheriffs, juries, and all the paraphernalia of courts of record, were holding district courts, and the duration of each of those sittings was a term of court." See *Gird v State*, 1 Or 308, 311.

situated. Located. Located physically.

Personal property is "situated" wherever it happens to be for the time being. *County of Allegheny v Gibson*, 90 Pa 397, 421.

situs. The place of the occurrence or the location of property involved in an action. 16 Am J2d Confl L § 11. Location of property in a physical sense. Location of property in a legal or fictional sense, as the situs of personal property for taxation.

See **business situs.**

situs for taxation. A place within the jurisdiction of the taxing authority. For real property, the place wherein the property is situated. For a license tax, the place wherein the acts which require a license are performed. 51 Am J1st Tax § 441. For a personal property tax, the county, city, town, or other taxing district in which the owner lives or has his domicil, except as the property has acquired a definite situs elsewhere, or unless other provision is made by statute. 51 Am J1st Tax § 448. For a tax on intangibles, the domicil of the owner, except as intangible property may have lost that situs under an exception such as that of "business" or "commercial situs." 51 Am J1st Tax § 463. For a personal or poll tax, the domicil of the person taxed. 51 Am J1st Tax § 447.

situs of assets. The location of assets left by a decedent, determinative of jurisdiction for administration. 31 Am J2d Ex & Ad § 38.

si universitas ad unum redit. If a corporation be reduced to one member. See 1 Bl Comm 469.

Si vasallus feudum dissipaverit, aut insigni detrimento deterius fecerit, privabitur. If a vassal shall have wasted the fee, or shall have made it less valuable by any extraordinary injury, he shall be deprived of it. See 2 Bl Comm 282.

sive sit masculus sive foemina. Whether (the heir) be male or female. See 2 Bl Comm 71.

Sive tota res evincatur, sive pars, habet regressum emptor in venditorem. Whether evicted altogether or partly, the vendee has his remedy against the vendor. See Broom's Legal Maxims 678.

Six Carpenters' Case. A celebrated case holding that refusal to pay for refreshment at a public tavern did not render a patron liable in an action of trespass as for an unlawful entry, because he had committed no trespass, and holding by way of dictum that the doctrine of trespass ab initio applied only where an entry was made under a license given by law, and not by permission of the party, and was not by permission of the party, and was followed by a trespass committed upon the premises. 8 Coke 146a.

six clerks in chancery. The clerks in whose office a bill in equity was filed.

Originally these clerks were all clergymen or priests and it was not until the English constitution began to change that a statute was enacted which permitted them to marry. See 3 Bl Comm 443.

six months' rule. The doctrine whereby the superior equity of claims based on operating expenses is extended to claims for material furnished or services and labor rendered within six months, or some other reasonable period, previous to the appointment of a receiver. 45 Am J1st Rec § 301.

Sixteenth Amendment. An amendment to the United States Constitution granting Congress the power to lay and collect taxes on incomes, from whatever sources derived, without apportionment among the several states, and without regard to any census or enumeration.

Sixth Amendment. An amendment to the United States Constitution contained in the Bill of Rights, providing that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

sixth degree. A degree of relationship, that of the children of one's second cousins, according to the civil law method of computing degrees of kinship which prevails in most American jurisdictions. 23 Am J2d Desc & D § 48.

skates. Metal runners or blades attached to the shoes, or in a frame convenient for attaching to shoes, upon which one may propel himself in a gliding movement over ice. Slang for old horses or old men.

See **roller skating.**

skating rink. A public place of amusement, usually equipped with freezing elements maintaining a good surface of ice. *Inglis v Rymer*, 113 Fla 732, 152 So 4. A place for skating whether on ice skates or roller skates, often a public place where a charge is made for admission.

See **roller skating.**

skeleton bill of exceptions. A bill of exceptions which does not contain the evidence or rulings, but instead contains directions to the clerk of the trial court as to the parts of the transcript which are to be copied into the record for the appellate court. 4 Am J2d A & E § 434.

skeleton minutes. Minutes or short notes made by the court of the business transacted by the court during his sitting, the same to be extended later by the clerk of the court in the proper book of record. *Johnson v Commonwealth*, 80 Ky 377, 379.

sketch. A drawing or design with little, if any, detail. An outline of story or article to be written. A story told briefly, with little detail. A product of architectural services. 5 Am J2d Arch § 3.

skiagraph. Same as **radiograph**.

skid. An uncontrolled movement of a motor vehicle in sliding forward or to the side, caused by application of brakes or defective balance in the vehicle.

skid marks. The marks on the paving or ground left by the tires of a skidding motor vehicle. Anno: 70 ALR 544, s. 94 ALR 1192; 7 Am J2d Auto § 339.

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skiff. A long and narrow rowboat, sometimes equipped with a sail. *Quinette v Bisso* (CA5 La) 136 F 825, cert den 199 US 606, 50 L Ed 330, 26 S Ct 746.

skill. Ability; proficiency. Knowledge coupled with the ability to apply it.
See **ordinary skill; reasonable skill; utmost care and skill**.

skilled witness. See **expert witness**.

skimntington. See **riding skimmington**.

skip-tracing. Services in locating debtors who have disappeared.

skip-tracing agency. An agency which assists creditors in locating delinquent debtors, either indirectly by giving advice and mailing materials or directly by uncovering information concerning the whereabouts of the delinquent ones.

Such a service or agency is to be distinguished from a collection agency in the respect that it does not directly attempt to collect the debt from the debtor. *Rothschild v Federal Trade Com.* (CA7) 200 F2d 39, cert den 345 US 941, 97 L Ed 1367, 73 S Ct 832; *Wachsman v United States* (Mun Ct App Dist Col) 175 A2d 789.

skylarking. Boisterous play, especially by employees who should be working. 35 Am J1st M & S § 201; 58 Am J1st Workm Comp § 268.

sky sign. A sign on the roof of a building. 3 Am J2d Advertg § 15.

slacker. One who evades a duty, particularly the duty of rendering military service in time of war.

The word is not found in lexicons published prior to World War 1, but had its genesis as to use and meaning in the conditions following our entrance into such war, and in the exigencies of its successful prosecution. During the war it was unquestionably a term of the severest reproach, well understood by all men, and calculated to subject its bearer to hatred and contempt in practically every community in the land. *Choctaw Coal & Mining Co. v Lillich*, 204 Ala 533, 86 So 383, 11 ALR 1014, 1016.

slack lime. Lime to which water has been applied in the course of preparing it for use in making mortar.

slack statute. A state statute enacted for the purpose of taking advantage of the credit allowed against the federal estate tax for death taxes paid to any state or territory. *Re Gallagher*, 57 NM 112, 255 P2d 317, 37 ALR2d 149.

slag. Refuse taken from a furnace. 49 Am J1st Stat of F § 156.

slander. In modern usage, the speaking of base and defamatory words which tend to prejudice another in his reputation, office, trade, business, or means of livelihood. 33 Am J1st L & S § 3.

The term "slander" was formerly used as including both written and spoken defamation. *Fenstermacher v Indianapolis Times Pub. Co.* 102 Ind App 189, 1 NE2d 655.

See **fair comment; privileged communication; privileged occasion.**

slander of great men. See **scandalum magnatum.**

slander of property. Words or conduct which tend to disparage or reflect upon the quality, condition, or value of particular property. *Paull v Halferty*, 63 Pa 46.

slander of title. Words, written, printed, or uttered, which bring or tend to bring in question the right or title of another to real or personal property. 33 Am J1st L & S § 344. A false and malicious statement, oral or written, made in disparagement of a person's title to real or personal property, or some property right of his. *Landstrom v Thorpe* (CA8 SD) 189 F2d 46, 26 ALR2d 1170.

Slander of title is a false and malicious statement, oral or written, in disparagement of a person's title to real or personal property, causing him special damage, and the essential elements of a cause of action therefor are the uttering and publication of the slanderous words by defendant, the falsity of the words, malice, and special damages. *Cawrse v Signal Oil Co.* 164 Or 666, 103 P2d 729, 129 ALR 174.

slanderous per quod. Spoken words possibly of a noxious quality in respect of causing injury to another by prejudicing him in reputation, office, or means of livelihood, but actionable only as their injurious effect is established by due allegation and proof. *Elkins v Roberts* (Ky) 242 SW2d 994, 38 ALR2d 159.

slanderous per se. Spoken words of such nature as to be presumed by law actually and necessarily to damage the person of and concerning whom they are spoken, so as to be actionable without extrinsic proof of their injurious character. *Elkins v Roberts* (Ky) 242 SW2d 994, 38 ALR2d 159.

slattern. A woman untidy in appearance and habits.

See **slut.**

slaughterhouse. A building or plant where the business of butchering animals is conducted. 48 Am J1st Slaughter § 1.

Slaughter-House Cases. Cases responsible for a famous decision of the United States Supreme Court upholding a statute which rendered an exclusive franchise to a slaughterhouse company, the point at issue being the reasonableness of the classification made by the statute. (US) 16 Wall 36, 21 L Ed 394.

slaughtering. The killing of an animal for food. *Shain v Armour & Co.* (DC Ky) 50 F Supp 977. Killing brutally or in large numbers, whether of people or animals.

slave. A person owned by, and bound to, another. 48 Am J1st Slav § 4.

slave master. The owner of a slave.

slavery. Bondage. Involuntary servitude. An institution where one man is owned by and bound to another. 48 Am J1st Slav § 4.

The term implies involuntary servitude—a state of bondage; the ownership of mankind as a chattel, or at least the control of the labor and services of one man for the benefit of another, and the absence of a legal right to the disposal of his own person, property, and services. *Plessy v Ferguson*, 163 US 537, 542, 41 L Ed 256, 257, 16 S Ct 1138.

slave trade. The holding or transportation of human beings for sale as slaves. 48 Am J1st Slav § 1.

slay. To kill.

The word adds nothing to the force and effect of the word "kill," when used with reference to the taking of human life. It is particularly applicable to the taking of human life in battle; and when it is not used in this sense, it is synonymous with the word "kill." The man that is slain is killed; and the

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man that is killed by the hand of his fellow man is slain. *State v Thomas*, 32 La Ann 349, 351.

See **slaughtering**.

sled. A low vehicle mounted on runners, used by children, occasionally by adults, in coasting on snow or ice.

See **sleigh**.

sleep. To delay action to secure one's rights. To rest in both body and mind without conscious thought and a minimum of movement.

sleepers. One who is asleep. A horse in a race or a man in a contest, unknown before but winning or rating high in the race or contest. A beam which supports a building, placed horizontally on the foundation. A sleeping car.

sleeping car company. A public service corporation which under a contract with a railroad company, operates in a more or less independent manner its own cars as component parts of passenger trains for the purpose of furnishing to passengers sleeping facilities at night and special accommodations during the day, together with services incidental thereto, for which certain charges over and above the regular railroad fare are made for the benefit of the company operating the cars. 48 Am J1st SI Car Co. § 1. Facetiously characterized as "flying nondescripts." sleeping on rights. *Laches*. 27 Am J2d Equity § 130.

sleeping partner. Same as **dormant partner**.

sleeping porch. See **porch**.

sleepwalking. See **somnambulism**.

sleigh. A vehicle equipped with runners, for use on snow or ice. 25 Am J1st High § 165.

See **sled**.

slide. An amusement device, particularly for children, usually found in parks, wherein a child may slide on his backside. *Chardon v Alameda Park Co*. 1 Cal App 2d 18, 36 P2d 136. To coast in a sled.

See **skid**.

slight. Inconsiderable. Unimportant. *Janesville v Carpenter*, 77 Wis 288, 46 NW 128.

slight care. An attempted but very difficult classification. Care exercised in a particular situation less than that called for by ordinary and common prudence. *Litchfield v White*, 7 NY 438. Care so slight in degree that the failure to exercise it must be deemed gross negligence. *Merchant's Nat. Bank v Guilmartin*, 93 Ga 503, 21 SE 55.

slight diligence. Same as **slight care**.

slight negligence. A classification as impracticable as any classification according to a concept of degrees of negligence. 38 Am J1st Negl § 45. An absence of that degree of care and vigilance which persons of extraordinary prudence and foresight are accustomed to use; not sufficient as the foundation of an action or as a defense in a negligence action. 38 Am J1st Negl § 45.

sling. A weapon, consisting of a piece of rope or leather for throwing a stone from a pouch at the end. The weapon used by David against Goliath.

See **slingshot**.

slingshot. A weapon consisting of a small stick of wood with prongs or arms to which elastic bands are attached to furnish a means of compulsion of a small stone or piece of metal with force; sometimes classed as a deadly weapon. 56 Am J1st Weap § 3. A sling such as David used against Goliath.

See **sling**.

slip. A landing for a ferry. A place for mooring a vessel. 48 Am J1st Ship § 263. A rider attached to a contract, particularly a contract of insurance. 29 Am J Rev ed Ins § 268. A memorandum constituting a contract in itself, as a binding slip. A technical term for a great quantity of dust blown out of a blast furnace.

The escape of dust from blast furnaces into the atmosphere is, and always has been, incident to their operation. It escapes at all times, but in larger quantities when what is known as a "slip" occurs. In the operation of all blast furnaces "slips" occur from time to time. These are occasioned by the caking or incrusting of the ore in the stack of the furnace, and the falling away of the ore, fuel, and limestone beneath the crust by reason of continued combustion and the liquefaction of the iron, thus forming a chamber or vacant space into which the incrustated ore drops, occasioning an explosion, the violence of which depends upon the extent of the cavity produced and the amount of gas accumulated therein. See *Sullivan v Jones & Laughlin Steel Co.* 208 Pa 540, 57 A 1065.

See **binder; rider**.

slip of the tongue. Language different from that which the person who uttered the words intended to say.

slop stand. A sink. *Leonard Bros. v Zachary* (Tex Civ App) 94 SW2d 509.

slot machine. A coin-operated machine so operated that small amounts are put at hazard to win a larger amount. 34 Am J1st Lot § 16. An automatic vending machine; any machine requiring the deposit of money or metal chips therein before operating. 33 Am Am J1st Lic §11.

slough. A depression; a marsh or swamp. Anno: 40 ALR 852. Sometimes considered a natural drainway of surface water. 56 Am J1st Water § 75. In an unusual sense of the term, one of the waterways which separate islands in a river from one another or from the mainland. *Dunlieth & Dubuque Bridge Co. v County of Dubuque*, 55 Iowa 558, 565.

slowdown. A concerted slowing down of production on the part of employees in an industrial plant. *Kennedy v Westinghouse Electric Corp.* 16 NJ 280, 108 A2d 409, 47 ALR2d 1025. A direction posted on a sign or communicated by signalman or traffic officer in controlling the movement of trains on a railroad or vehicles on a highway.

slow-moving vehicle. A vehicle which is not maintaining the pace of other vehicles on the highway or in the same lane of the highway, assuming that the other vehicles are not operated in excess of the speed limit.

slow sign. A sign on the highway calling for a reduction in speed of vehicle. A sign along a railroad track calling for a reduction in speed of train.

sluiceway. Artificial watercourse, usually constructed for taking water from a natural watercourse for use in mining or industry.

A sluiceway over reclaimed flats, through which the tide ebbs and flows, is not a watercourse. *Chamberlain v Hemingway*, 63 Conn 1, 27 A 239.

slum. A section of a city wherein poor and underprivileged persons are housed in inferior and dilapidated dwellings, flats, apartment houses, and tenements.

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slum clearance. The improvement of housing for people of limited means by tearing down dilapidated and inferior structures and erecting new buildings, particularly apartment houses or other multiple dwellings, to be leased at moderate rentals. A public purpose. 26 Am J2d Em D § 42.

slush fund. Money collected for a corrupt use. *Boehm v United States* (CA8 Mo) 123 F2d 791.

slut. A slattern; a bold woman; in some connections, an unchaste woman. 33 Am J1st L & S § 39. A woman too careless and lazy to keep herself or her home in a condition of cleanliness, but not necessarily an unchaste woman. *Cooper v Seaverns*, 81 Kan 267, 105 P 509. A bitch; a female dog.

small average. Same as **petty average**.

small beer. A beer of low alcoholic content. 30 Am J Rev ed Intox L § 10.

small brew. Near beer; a nonintoxicating malt beverage. 30 Am J Rev ed Intox L § 11.

A term used in certain liquor statutes synonymously with "malt beverage" and "near beer" and classed with mixtures, preparations and liquids in which alcohol appears in varying proportions with other ingredients, and which may or may not contain alcohol in such proportion with the other ingredients that the stomach can bear enough of the mixture to produce intoxication. *Commonwealth v Henry*, 110 Va 879, 65 SE 570.

Small Business Act. A federal statute which declares and implements the policy of aiding, counseling, assisting, and protecting the interests of small business concerns in order to preserve free competitive enterprise. 15 USC § 631.

Small Business Administration. A federal agency created to carry out the policy declared by statute to aid, counsel, assist, and protect small business concerns. 15 USC § 633(a).

small business concern. A business independently owned and operated and not dominant in its field. 15 USC § 632.

small business corporation. A corporation which, although small in capitalization and the number of persons employed, may be a vital economic asset of the community.

For definition of small business corporation for tax purposes, see Internal Revenue Code § 1244(c).

Small Business Investment Act. See **small business investment company**.

small business investment company. An investment company licensed and operated under the Federal Small Business Investment Act of 1958, particularly for the supplying of long-term equity capital to small business concerns.

small claims court. A tribunal, sometimes existing independently, at other times constituting a separate division of a court of general jurisdiction, being provided for the general purpose of providing a summary procedure, less costly and less protracted than the ordinary procedure, for the litigation of small claims, that is, claims not exceeding a certain specified amount. *Superior Wheeler Cake Corp. v Superior Court*, 203 Cal 384, 264 P 488.

small damages. Damages which, although small in the amount awarded, were calculated and allowed as compensation for an actual loss.

See **nominal damages. small debtors' court.**

small employer. An employer of five or less workmen in the same industry or business, or in the case of an employer with different businesses, five or less workmen in one single and distinct business. *Moore v Isenman*, 127 Me 370, 143 A 462, 61 ALR 898.

small loan act. A statute regulating the business of those who make small loans on conditional sale contracts, chattel mortgages, pledges, or assignments of wages. A statute regulating the business of pawnbrokers. 40 Am J1st Pawnb §§ 8, 9. A uniform statute regulating the small loan business. *Madison Personal Loan v Parker* (CA2 NY) 124 F2d 143.

small loan company. A company making loans in comparatively small amounts, usually secured by chattel mortgage, conditional sale contract, or pledge.

smallpox. A communicable disease characterized by fever, vomiting, and eruptions which sometimes leave scars. 25 Am J1st Hlth § 25.

Small Reclamation Projects Act. A federal statute supplementing the Federal Reclamation Act. 43 USC §§ 422a-422k.

See **Reclamation Act.**

small tithes. Praedial tithes, other than great tithes, and also mixed tithes and personal tithes.

smart money. In the modern sense of the term, the same as punitive damages. 22 Am J2d Damg §§ 236 et seq.

It is interesting, as well as instructive, to observe that in colonial days the term smart money was employed in a manner entirely different from the modern signification which it has obtained, being then used as indicating compensation for the smarts of the injured person, and not as now, money required by way of punishment and to make the wrongdoer smart. *Murphy v Hobbs*, 7 Colo 541, 5 P 119.

smell. One of the senses.

"We do know that the olfactory nerves are just as efficient as the optic or auditory nerves. The difficulty lies in the fact that our conscious use of them is so less frequent. To put it another way, we may smell as we see or hear, but we do not sniff nearly as frequently as we look or listen. The problem is not one of sensitivity but rather of selectivity. Consequently, skill in the art of detection through the sense of smell comes from experience rather than aptitude." *United States v Commercial Creamery Co.* (DC Wash) 43 F Supp 714.

smeller. One able to test products, such as cheese and alcoholic beverages, by smelling a sample.

smelting. The process of developing metal from ore by the removal of other substances and impurities.

By its derivation, the term is synonymous with the word "melting," but in metallurgy and commercial manufacture it has come to have a more contracted meaning. In his treatise on Metallurgy, Frederick Overman says: "When metallic ores are exposed to heat, and such reagents as develop the metal, we call it smelting, in contradistinction from the mere application of heat, causing the ore to become fluid, which is called 'melting.' " *Lowrey v Cowles Electric Smelting & Aluminum Co.* (CC Ohio) 68 F 354, 369.

Smith Act. A federal statute which makes it unlaw-

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the overthrow of the government by force. 18 USC § 2385.

smog. A mixture of smoke and fog; any mixture in the air which impairs vision or is discomforting to a person in his breathing.

smoke. Noun: The visible exhalation, vapor, or substance that escapes or is expelled from a burning body-especially from burning vegetable matter, as wood, coal, peat, or the like. *St. Paul v Haugbro*, 93 Minn 59, 100 NW 470. Verb: To give off matter constituting vapor interspersed with small particles of carbon produced by the burning of some substance. To use tobacco by drawing the smoke therefrom into the mouth, sometimes by inhaling it into the lungs, accomplished by the employment of cigar, cigarette, or pipe.

smoke farthings. An ancient tax.

As early as the Norman Conquest mention is made in Domesday Book of "fumage" or "fuage," vulgarly called "smoke farthings," which were a tax or duty paid by custom to the king for every chimney in the house. See 1 Bl Comm 324.

smokehouse. A place where cigars, cigarettes, and tobacco in other forms are sold. In older usage, an outbuilding used on occasion for smoking meat.

smokeless coal. A term of the coal business, not intended as a precise expression of a scientific concept.

A trade or commercial term applied to a grade of soft coal in which the volatile matter runs from sixteen to twenty-one per cent. The volatile matter in hard coal is a much smaller percentage. Ordinarily soft coal contains from thirty-two to forty per cent volatile matter and its tendency is to produce a dense smoke. *State v Chicago, Milwaukee & St. Paul Railway Co.* 114 Minn 122, 130 NW 545.

smuggling. The criminal offense of knowingly and wilfully, with intent to defraud the United States, clandestinely introducing into the United States any merchandise which should have been declared for customs duty. 21 Am J2d Cust D § 119.

snap judgment. A judgment by default. See *Nation v Savely*, 127 Okla 117, 260 P 32, 34. A conclusion reached without deliberation.

snatching. A form of larceny; robbery where accompanied by force. 46 Am J1st Rob § 21.

See **body snatching.**

snatching purse. A form of larceny. 32 Am J1st Larc § 44.

sneak. A person who acts in a contemptible underhand manner. A furtive fellow.

See **area-sneak.**

snodder. A rope attached to a fish net and used for hauling in the net. *Nolan v General Seafoods Corp.* (CA1 Mass) 112 F2d 515.

snowbed stream. A watercourse having its source in a snowbed in the mountains which forms regularly at a certain season of the year. 56 Am J1st Wat § 8.

snow chains. Chains fitted to the rear tires of an automobile to give traction on snow and ice and reduce the likelihood of skidding.

snow job. A slang term for activity in investigation or prosecution intended to cover and hide offenses of a much more serious nature.

snuff. A pulverized form of tobacco, the consumers of which usually sniff it through the nose although it is also plastered on the gums and thus absorbed rather than chewed. State v Olson, 26 ND 304, 144 NW 661.

so. Abbreviation of **south**.

s. o. Abbreviation of **seller's option**.

soap box derby. A well organized contest and exhibition, operated under rules established by a national organization, wherein the participants, boys of limited age, race against time in vehicles of their own design and construction which may be described as coasters on wheels. Cummings v General Motors Corp. 146 Conn 443, 151 A2d 884, 72 ALR2d 1129.

s.o.b. An abbreviation of clear and unmistakable import.

A wife's statement, to those present at the husband's place of business, that the allegations in his petition for a divorce were lies and that he was a "s-o-b" for making them, is not public defamation in itself. McKoin v McKoin, 168 La 32, 121 So 182, the court characterizing the statement as nothing more than disgusting and senseless abuse.

sober. Temperate or sparing in use of intoxicating liquor. 29 Am J Rev ed Ins § 774. Not under the influence of liquor or drugs. Having self-control.

A statutory requirement that a juror shall be sober refers only to the time in which the juror sits, and his qualification is not affected by his habits in regard to intoxicating liquor at other times, unless they have gone so far as to make him of unsound mind at all times. Anderson v State, 54 Ariz 387, 96 P2d 281, 126 ALR 501.

soca. An ancient Latin word meaning a plough. See 2 Bl Comm 80.

socage. Land tenure by nonmilitary service. See **common socage**; **free socage**; **guardian in socage**; **simple socage**.

socage tenure. See **socage**.

socagium. Socage.

Socagium est servitium socae. Socage is the service of the plough. See 2 Bl Comm 81.

socer. A father-in-law.

social club. A term of art, embracing a variety of organizations other than business, philanthropic, or educational associations. Duquesne Club v Bell (CA3 Pa) 127 F2d 363, 143 ALR 1377. As an organization exempt from federal income tax, a club not organized for profit or for the benefit of private shareholders. Internal Revenue Code § 50

As the term is used in the Federal income tax law, if any material, that is, important part of the club's activities (but not as much as a moiety thereof) are social as contradistinguished from the remaining non-social activities, it is a social club. *Town Club of St. Louis v United States* (CA8 Mo) 68 F2d 620.

Within the meaning of the Federal statute imposing a tax on the fees or dues of such a club, it is in general a club that has for its primary purpose the cultivation of companionable relations. However, no exact definition can be given for such a club and whether the fees or dues of a particular club or organization are subject to tax as a social club is primarily a question of fact. The issue is to be determined according to the predominant purpose of the organization, and social features which are

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merely incidental to the general activities of an organization will not characterize it as a social club. But if the predominant purpose of an organization is social, it is a social club, notwithstanding the fact that other activities may be important, or that the activating motive of the members in joining was to make business contacts. Anno: 80 ALR 1297, s. 143 ALR 1382; 86 L Ed 633.

See **athletic club; club; country club; fraternal order or society.**

social duty. See **moral obligation.**

social guest. See **guest.**

social insurance. Those forms of insurance intended primarily to enable an old or disabled person to live without resort to a public welfare agency.

socialism. A much abused term, standing at one time for an economic system calling for increased participation by the government in the affairs of the people, meaning public ownership and operation of public utilities, the absorption of industrial plants by the government, looking toward a day when private ownership of property might be eliminated, except for the most personal things; applied in more recent times as a cloak for totalitarian governments and dictatorships.

See **communism.**

social position. The rank of one as a member of the social order as indicated by standard of life, companions, degree of culture, regard for the amenities, and etc.

Social Security. In the broadest sense, the welfare of the people with ample means of subsistence and enjoyment of life under the protection of the Government. In the popular sense, the system which provides old-age and survivors' insurance benefits. 48 Am J1st Soc Sec § 2.

Social Security Act. A federal statute providing for the establishment of a nation-wide federal and state system of old age assistance, old age and survivors' insurance benefits, and unemployment insurance or compensation, plus some incidental benefits. 42 USC §§ 301 et seq.

Social Security Board. The federal agency which operates the social security system. 48 Am J1st Soc Sec § 9.

social standing. Same as **social position.**

societas. (Roman law.) A partnership. *Hagget v Hurley*, 91 Me 542, 40 A 561.

societe anonyme. An association the liability of the members of which is limited.

society. The community. The people of the community or considered as a whole in state or nation. The associates which one has. A voluntary association, sometimes a corporation, organized and existing for the mutual benefit of its members in patriotic, religious, charitable, or professional pursuits or for providing benefits in case of illness or disability of a member or for his widow or children in the event of his death.

See **association; club; mutual benefit society; social club.**

Society for Prevention of Cruelty to Animals. An organization, recognized as charitable in purpose, which teaches kindness and consideration for dumb animals, advocates legislation penalizing cruelty to animals, and urges by appropriate acts the enforcement of such legislation. Anno: 12 ALR2d 874, § 5; 15 Am 12d Char § 88.

society of wife. A right of the husband known by the legal term "consortium."

As the word is used in connection with a husband's right to recover damages for the loss of his wife's "society," it means such capacities for usefulness, aid, and comfort as a wife, which she possessed at the time of the injury which she suffered by the act or omission of the defendant. *Golden v Greene Paper Co.* 44 RI 231, 116 A 579, 21 ALR 1514, 1516.

See **consortium.**

socii. Associates; partners; members of a partnership. *Williams v Milton*, 215 Mass 1, 102 NE355.

Socii mei socius meus socius non est. (Civil law.) The partner of my partner is not my partner.

sociopath. Another term for sexual psychopath.

socman. A tenant in socage.

See **sokemans.**

sod. Turf. A layer of the surface taken from lawn, meadow, or pasture, with the grass growing thereon as supported by the roots therein.

sodding. Covering the surface of the ground with sod brought from another place, normally for the purpose of obtaining a good grass cover quickly. *Holmes v Heeter*, 146 Ky 52, 142 SW 210. Creating a grass lawn by laying thereon sod cut from a grass meadow or from a plot specially adapted to the growing of grass for sod making. 36 Am J1st Mech L § 66.

sodomy. Broadly, unnatural sexual relations as between persons of the same sex, or with beasts, or between persons of different sex but in an unnatural manner. 48 Am J1st Sod § 1. Perverted sexual practice. 48 Am J1st Sod § 2. In the narrow sense, sexual connection between two human beings of the male sex. *Ausman v Veal*, 10 Ind 355.

A common-law crime deriving its name from the Biblical city of Sodom.

soft drink stand. A place, sometimes on the sidewalk, where soft drinks, candy, and other small items of food or confection are obtainable. *Re Henery*, 124 Iowa 358, 100 NW 43.

softening of the brain. A disease of the brain which gradually obliterates the memory and mental faculties. *Holden v Meadows*, 31 Wis 284, 296.

soil. The surface layer of earth; the layer which produces plant life and is tilled in the raising of crops.

See **common in the soil.**

Soil Bank Act. A federal statute designed to assist farmers in diverting a portion of their crop-land from production, thereby avoiding the accumulation of excessive agricultural commodities, and to promote soil conservation, by providing for payments to

them in consideration of their putting a certain amount of their crop-land in "soil bank," that is taking it out of production, at least out of production of certain crops. *United States v Maxwell* (CAS Iowa) 278 F2d 206.

soil bank payment. See **Soil Bank Act.**

soile. See **en autre soile.**

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Soit baile aux commons. Let it be delivered to the commons.

Soit droit fait al partie. Let right be done to the party.

Suit fait comme il est desire. Let it be as it is desired. 1 Bl Comm 184.

sojourn. To stay in a place for a short time.

soke. The right to hold court and do justice, with the franchise to receive certain fees or fines arising from it; jurisdiction more or less wide over certain territory, or over certain men, or the right to exercise such jurisdiction; the duty of submitting to such jurisdiction; a jurisdiction or franchise; the district over which such jurisdiction extended. (Webster's Dictionary.)

sokemanries. See **sokemans.**

sokemans. Socmen, tenants in socage.

Britton, because of their freedom from base services, calls them "sokemans," and their tenure "sokemanries;" which he describes to be lands and tenements which are not held by knight service, nor by grand serjeanty, nor petit, but by simple services, being lands enfranchised by the king or his predecessors from their ancient demesne. See 2 Bl Comm 100.

soken. A district held by socage tenure.

soke-reeve. A rent gatherer in a soken.

Sola, ac per se, senectus donationem, testamentum aut transaetionem non vitiat. Old age alone and of itself will not vitiate a gift, a will, or a transaction. *Van Alst v Hunter* (NY) 5 Johns Ch 148, 159.

solar day. From sunrise to sunset. By solar time, one rotation of the earth.

solares. A term frequently occurring in Spanish-American land grants and meaning house lots of a small size, upon which dwellings, shops, stores, and the like were to be built. *Hart v Burnett*, 15 Cal 530, 554.

solar month. A calendar month.

solar time. Time as measured by what appears to be the daily transit of the sun, caused by the rotation of the earth. 52 Am J1st Time § 2.

See **local sun time; mean solar time; standard time; sun time or standard.**

solar year. The time which elapses from the sun's appearance on one of the tropics to its return to the same; commonly 365 days, and in leap years, 366 days; unless the context or other indications show a different intent, it means a year consisting of twelve calendar months. See 52 Am J1st Time § 10.

solatium. Compensation or damages for sorrow, mental anguish, or wounded feelings. *Morgan v Southern Pacific Co.* 95 Cal 510, 30 P 603; *Marshall v Consolidated Jack Mines Co.* 119 Mo App 270, 95 SW 972.

sold. Past tense of sell. A word used by an auctioneer in accepting a bid as being the highest one made and completing the sale. 7 Am J2d Auct § 31. A slang expression for succumbing to trick, deception, or fraud.

As used in conversation, and even by law writers, the word may signify only, that a bargain or contract to sell has been made, or that there has been such a contract, and delivery of the goods, or that such a contract has been made and completed by the payment of the price. The meaning will usually be clearly ascertained by the words used in connection with it, or by the circumstances developed. An example of the first sense would be, "if goods are sold upon condition to be performed at the time of delivery, and the goods are delivered, but the conditions are not performed," and where it is said, "the vendor has a lien for the price of goods sold." An example of the second sense is where we speak of "an action for goods sold." An example of the third is where we say, "if the purchaser neglects to remove goods sold within a reasonable time, the seller may charge him with storage." *Hathaway v Burr*, 21 Me 567.

soldier. One of the Army as a private, noncommissioned officer, musician, technician, artificer, or other enlisted man. 36 Am J1st Mil § 5. Either an enlisted man or a commissioned officer for the purpose of making a "soldier's will." 57 Am J1st Wills § 662.

Soldiers' and Sailors' Civil Relief Act. A federal statute providing for a stay of an action or proceeding in any court in which a person in military service is involved as a party plaintiff or defendant at any stage thereof, either on the court's own motion, or upon application by the person in military service or some person on his behalf, unless, in the opinion of the court, the ability of the plaintiff to prosecute the action or of the defendant to conduct his defense is not materially affected by reason of his military service. 50 USC appx § 521; 37 Am J1st Mtg § 907; 56 Am J1st War § 26.

soldier's bounty. See **military bounty.**

soldiers' homes. See **veterans' homes.**

soldier's will. The informal will of a soldier, whether oral or in writing, rendered valid, where the will of a person in another occupation would be invalid, under an exception from formalities required to be observed in the execution of wills generally, recognized because of the dangers, diseases, disasters, and the possibility of sudden death constantly besetting a soldier and the inability of such a person to find the time or the means to make a deliberate and written testamentary disposition. 57 Am J1st Wills § 661.

sold notes. See **bought and sold notes.**

sole. As one only. Single. Not joint. Exclusive.

See **feme sole.**

sole actor doctrine. The principle that the knowledge of a corporate officer or agent is imputed to the corporation notwithstanding it has reference to a transaction in which the officer or agent is acting fraudulently or adversely to the corporation, where it appears that the officer or agent is the sole representative of the corporation in the transaction in question. 19 Am J2d Corp § 1267.

sole and unconditional ownership. Ownership of such dominion that no one else has any interest in the property as an owner and the quality of the estate is not limited or effected by any condition. The ownership of an estate or property without

outstanding interest or condition attached which would cause the loss of the property, if it should occur, to fall upon another person. 29A Am J Rev ed Ins § 791.

The clause in an insurance policy requiring sole and unconditional ownership has to do, not with questions of title to be precisely determined, but with beneficial and practical ownership. Libby

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Lumber Co. v Pacific States Fire Ins. Co. 79 Mont 166, 255 P 340, 60 ALR 1.

An insurance policy's condition as to "sole and unconditional ownership" refers to the real owner and is not broken by the mere fact that the record title is, for purposes of convenience, in another for a time. American Indem. Co. v Southern Missionary College, 195 Tenn 513, 260 SW2d 269, 39 ALR2d 714.

As the expression is used in fire insurance policies requiring the insured to be the sole and unconditional owner of the insured property, a purchaser in possession under a contract whereby the former owner agrees to sell and the buyer absolutely binds himself to purchase and to pay an agreed price for the property, is almost universally held to be the unconditional owner, because the loss from an injury to or destruction of the property falls upon him. Phenix Insurance Co. v Kerr (CA8 Neb) 129 F 723.

See **sole ownership; unconditional ownership.**

sole corporation. Same as **corporation sole.**

sole discretion of trustee. The broadest measure of permissible discretion, but not an unbridled or unlimited discretion, since such would negate the existence of a trust. 54 Am J1st Trusts § 36.

sole efficient cause. The proximate cause of an accident. 7 Am J2d Auto § 376.

sole judge. One coming to a conclusion or reaching an opinion uncontrolled by others. Prudential Ins. Co. v Nelson (CA6 Tenn) 101 F 2d 441.

solely. Acting alone. Standing alone. Without another.

solemnitas. Solemnity; formality.

Solemnitates juris sunt observandae. The formalities of the law should be observed.

solemnization of marriage. The performance of the formal act or ceremony by which a man and woman contract marriage and assume the status of husband and wife. 35 Am J1st Mar § 25. As a requirement of the law, any celebration or ceremony which gives utterance to and public evidence of the contract of marriage. Howard v Kelly, 111 Miss 285, 71 So 391.

solemn form. See probate in solemn form.

solemn oath. Same as corporal oath.

solemn occasion for advisory opinion. A situation where the executive or legislature is in doubt as to its power or authority or the authority of a subordinate under its direction and the elimination of such doubt is necessary to enable it to act legally and intelligently upon a pending question. Re Opinion of Justices, 269 Mass 611, 168 NE 536, 66 ALR 1477.

solemn war. A war declared in form and of the perfect kind. 56 Am J1st War §4.

See **perfect war.**

solemn will. A civil law term for a written will. *Castro v Castro*, 6 Cal 158, 160.

Solent foeminarum ductu bellare, et sexum in imperiis non discernere. They are accustomed to wage war under the leadership of women, and they make no sex distinctions in matters of government. See 1 Bl Comm 194.

sole ownership. Exclusive ownership. An ownership so complete that no other person has any interest in the property. See **sole and unconditional ownership**.

sole possession. Exclusive possession.

sole representative doctrine. Same as sole actor doctrine. 19 Am J2d Corp § 1267.

See **sole actor doctrine**.

sole tenant. A tenant whose ownership is entire; that is, neither joint nor in common.

solicit. To importune, entreat, implore, ask, attempt, or try to obtain an order. 30 Am J Rev ed Intox L § 272. To invite a business transaction, for example, the issuing of a policy of insurance. *Maryland Casualty Co. v McTyler*, 150 Tenn 691, 266 SW 767, 48 ALR 1 168. To commit the offense of solicitation.

solicitation. An act of soliciting. The substantive offense of inciting or soliciting another to commit a crime. 21 Am J2d Crim L § 114. The act of a prostitute in seeking patronage on the street or in a public place, railroad station, bus terminal, etc. 42 Am J1st Prost § 1.

See **indirect solicitation**.

solicitation of adultery. The expression of a desire and a willingness on the part of one person to commit adultery with another and an effort to obtain that person's consent. *Stale v Butler*, 8 Wash 194, 35 P 1093.

solicitation of bribe. Corruptly offering to receive a bribe, or expressing a willingness to receive one; an offense at common law and under various statutes, although something less than bribery or even an attempt to receive a bribe. 12 Am J2d Brib § 11.

solicitation of business. Seeking orders for goods or services. A matter considered in determining whether a corporation is within the purview of statutes relative to foreign corporations transacting business in the state. 36 Am J2d For Corp § 246. An unethical practice by an attorney at law constituting ground for disbarment or suspension from practice, whether conducted personally or through the employment of an agent or runner. 7 Am J2d Attys § 40.

See **solicit**.

solicitation of order. See **solicit**; **solicitation of business**.

solicitation of proxies. The solicitation of stockholders of a corporation to obtain proxies to vote at a stockholders' meeting. 19 Am J2d Corp § 678. Any request for a proxy, whether or not accompanied by or included in a form of proxy; any request to execute, not to execute, or to revoke a proxy; or the furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. Anno: 12 L Ed 2d 1240, 1246.

solicitation of votes. Requesting a vote for a particular candidate or candidates of an election; a criminal offense where conducted at restricted times and places on election day. 26 Am J2d Elect § 374.

soliciting agent. An agent who solicits orders for goods or services to be furnished by his principal. Sometimes, but not invariably, regarded as a managing agent for the purpose of statutes concerning the service of process upon a foreign corporation. 36 Am J2d For Corp § 560. An agent of an insurance company empowered to solicit, receive,

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and report applications, but ordinarily without authority to accept an application on behalf of the company and complete the making of a contract of insurance. 29 Am J Rev ed Ins § 193. A special agent of an insurance company, having authority only to solicit insurance, submit applications therefor to the company, and to perform such acts as are incidental to that power. *Turner v Supreme Lodge K. P.* 166 Okla 286, 27 P2d 612, 93 ALR 647.

In the absence of special circumstances, including statutory or contractual provisions, an agent of the insurer who solicits or effects insurance is not the agent of the insured. 29 Am J Rev ed Ins § 136.

solicitor. A person who, going from person to person or from house to house, seeks orders, subscriptions, contributions, or any other kind of support, or who, without necessarily having the intention of making a direct sale, distributes literature pamphlets, hand bills, samples, and the like for the purpose of information, advertising, or for other purposes such as the furtherance of public, political, economic, religious, or social beliefs, systems, projects, or doctrines. 40 Am J1st Ped § 6. Inclusive of a soliciting agent. Not inclusive of a peddler. Anno: 9 ALR2d 737. An attorney at law acting as the head of the law department of a municipal corporation or other division of government. In England a person trained in the law who prepares briefs, drafts pleadings and legal instruments, consults with and advises clients, but is not heard in court, at least not in the superior courts.

English attorneys-at-law have been called "solicitors" since the Judicature Act of 1873 took effect. They are not members of the bar and are not heard in the superior courts; and the power of admitting them to practice, and striking them off the roll has not been given to the inns of court. *Re Ricker*, 66 NH 207, 29 A 559. This decision contains a most valuable account of the qualifications, functions, privileges, and duties of barristers, serjeants, solicitors and attorneys-at-law.

Solicitor General. An officer learned in the law in the Department of Justice, assisting the Attorney General in the performance of the duties of the latter, appointed by the President of the United States, by and with the advice and consent of the Senate. 5 USC § 293. In England, a barrister of high rank next in precedence after the attorney general, with whom he is associated in the performance of his duties, and permitted to sit within the bar of the respective courts with the king's counsel. See 3 Bl Comm 28 and note.

solido. See **in solido**.

solidos legales. Lawful shillings. See 2 Bl Comm 509.

solidum. The whole.

See **in solidum**.

solitary confinement. A special condition of imprisonment. 21 Am J2d Crim L § 615. A punishment for crime consisting of the complete isolation of the prisoner from all human society and his confinement in a cell where he has no direct intercourse with or sight of any human being, and no employment or instruction; it is the complete exclusion from human associations. *Re Medley*, 134 US 160, 33 L Ed 835, 10 S Ct 384.

The term is to be distinguished from close confinement.

solo. Performed by one. See **in solo**.

Solo cedit quod solo implantatur. (Civil law.) That which is planted in the soil belongs to the soil.

Solo cedit quod solo inaedificatur. (Civil law.) That which is built into the soil belongs to the soil.

solo flight. The first air flight of a student pilot without an instructor in the plane with him. *De Rienzo v Morristown Aircraft Corp.* 28 NJ 231, 146 A2d 127.

so long as. Technical words used to create a determinable fee. *Consolidated School Dist. v Walter*, 243 Minn 153, 66 NW2d 881, 53 ALR2d 218.

In most instances in which the language of disposal does not include a use of the expression "for life", or a similar one, but gives or grants the premises "for so long as" the conveyee shall occupy the same as a home, or in similar terms, the conclusion reached has been that a life estate was given. The question is affected, and may of course be controlled, by peculiarities of the particular instrument. Anno: 45 ALR2d 707.

solo proprio. See **in solo proprio.**

solum. Soil; ground.

solum et fundum. The bottom and the soil.

A grant *solum et fundum* of a river is a grant of the bottom of the river and the soil beneath. *Arnold v Mundy*, 6 NIL 1.

Solum rex hoc non facere potest, quod non potest injuste agere. This alone the king cannot do, he cannot act contrary to law.

Solus Deus haeredem facit. God alone makes an heir.

solutio. (Civil law.) Payment; settlement.

solutio indebiti. See **indebiti solutio.**

Solutio pretii emptionis loco habetur. The payment of the price is regarded as taking the place of a sale.

Title acquired by the conversion of a chattel takes effect from the time of the conversion. This rests upon the maxim, which presumes that the wrongdoer is in possession of the property and has not voluntarily parted therewith to a third party. *Third National Bank v Rice* (CA8 Mo) 161 F 822.

solutum. See **in solutum.**

solutus. (Civil law.) Free; freed; released; free from debt or mortgage; unincumbered; paid.

solvency. The condition of a person having sufficient assets to meet his obligations as they mature in the ordinary course of business. Ability to pay one's debts, not a mere disposition to pay. *Janes v Scott*, 59 Pa 178. A word which implies as well the present ability of the debtor to pay out of his estate all his debts, as also such condition of his property as that it may be reached and subjected by process of law, without his consent, to the payment of such debts. 29 Am 1 Rev ed Insolv § 2.

Solvency is to be distinguished from the state of a person who possesses the ability to secure further credit and thus incur further indebtedness. The lat-

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ter state may be one of insolvency. *Baily v Hornthal*, 154 NY 648 49 NE 56.

See **actuarial solvency.**

solvency policy. A policy of credit insurance.

See **credit insurance; guaranty policy.**

Solvendo esse nemo intelligitur nisi qui solidum potest solvere. (Civil law.) No one is regarded as solvent except a person who can pay in full.

solvendum in futuro. To be paid in the future. See 2 Bl Comm 513.

solvent. Adjective: In a condition of solvency. Noun: A substance which operates to dissolve another substance.

See **solvency.**

solvent credit. See **solvent debt.**

solvent debt. A debt which can promptly be enforced and realized. *Ward v Pittsburgh*, 321 Pa 414, 184 A 240, 105 ALR 682. An obligation which is collectible by the creditor in the ordinary course of business resort to suit or execution not being required. *Stillman v Lynch*, 56 Utah 540, 192 P 272, 12 ALR 552, 559.

solvent debtor. See **solvency.**

solvere. To pay; to release.

solvit. He paid.

Solvit ad diem. He paid at the day.

Solvitur adhuc societas etiam morte sucii. (Civil law.) A partnership is also dissolved by the death of a partner.

Solvitur eo ligamine quo ligatur. A person is released in the same manner in which he is bound. *Livingston v Lynch* (NY) 4 Johns Ch 573, 582.

solvit vel non. Whether he has paid or not.

Although the jury must pass upon the issue of solvit vel non, they are to be governed, as the court directs, by the law as to the presumption of payment from lapse of time. *Gulick v Loder*, 13 NJL 68.

Sommersett's Case. A celebrated English case decided in 1772, holding a Negro slave to be a free-man on English soil.

somnambulism. Walking in one's sleep. 21 Am J2d Crim L § 29. Characterized by one authority as a species of mental unsoundness connected with sleep which destroys moral agency during the period of its existence. *Fain v Commonwealth*, 78 Ky 183.

somnolentia. The lapping over of a profound sleep into the domain of apparent wakefulness.

This condition is said to produce a state of involuntary intoxication, which for the time destroys moral agency. *Fain v Commonwealth*, 78 Ky 183 quoting Wharton & Stille.

son. One's male child. One's male child born in wedlock. *Wilkinson v Adam*, 1 V. & B. 422, 35 Eng Reprint 163. A word which is not a technical legal term having a fixed and definite meaning, but one which is flexible and subject to construction to give effect to the intention of the maker of the instrument in which it appears. *Conner v Gardner*, 230 Ill 258, 82 NE 640.

sonans. See **idem sonans.**

son assault. Same as **son assault demesne.**

son assault demesne. His own assault. The plea of self-defense. See 3 Bl Comm 308.

son damage. See **en son damage.**

son done. See **de son done.**

son gree. See **de son gree.**

sonic boom. A byproduct of the "jet age"; a mechanical phenomenon of the air consisting of pressure waves and sound waves generated by an object moving through the air at a speed equal to or exceeding that of sound. 8 Am J2d Avi§ 99. A disturbance or shock caused by a jet air plane flying at a speed in excess of the speed of sound. Anno: 74 ALR2d 755.

son of a bitch. See **s. o. b.**

son tort. See **de son tort.**

sorcery. See **witchcraft.**

sore feet. A slang appellation for a child born a matter of days or weeks after the marriage of his parents.

sorghum. A plant cultivated for the production of molasses, such being rendered from the sweet juice pressed out of the stalk. The molasses or syrup produced from such plant.

sortitio. A casting lots; deciding by casting lots.

sortito. An adverb meaning by lot; as jurors are chosen. See 3 Bl Comm 366.

soul-scot. A part of a man's property set apart at his death for the church for the welfare of his soul. See 2 Bl Comm 425.

sound. Adjective: Healthy; free from disease or disability. Verb: To gauge the depth of a stream or body of water by dropping a weighted line. Noun: A body of water between two larger bodies, or between an island and the mainland. 12 Am J2d Bound § 13.

Sound. In eastern states, Long Island Sound. 12 Am J2d Bound § 13.

sound amplifier. See **amplifier.**

sound and disposing mind and memory. A matter of the possession of sanity. *Campbell v Campbell*, 130 111 466, 22 NE 620.

A testator is of sound and disposing mind and memory, if, at the time of making his will, he has sufficient mental capacity to be able to understand the act he is doing, to understand and recollect the nature and situation of his property, and to remember and understand his relations to the persons who have claims upon his bounty and whose interests are affected by the provisions of the instrument. *Re Smith's Estate*, 200 Cal 158, 252 P 325.

See **disposing mind; sound mind.**

sound animal. An animal without organic defect or infirmity which renders it unfit for immediate, present, usual, and reasonable use. 46 Am J1st Sales § 396.

sound barrier. Pressure waves which build up ahead of an object moving through the air at a speed equal to or exceeding that of sound. 8 Am J2d Avi § 99.

See **sonic boom.**

sound discretion. See **judicial discretion.**

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sound health. Good health. A physical condition characterized by the absence of any grave, important, or serious disease; freedom from any ailment seriously affecting the health. 29 Am J Rev ed Ins § 746.

As the term is generally used in life insurance policies providing that the insured must be in "sound health" at the date of the policy, it means good health. It is not to be taken literally. It does not mean perfect health, or imply absolute freedom from bodily infirmity or tendency to disease, but means generally the absence of any vice or disease in the constitution of a serious nature, or that has a direct tendency to shorten life, as contra-distinguished from a temporary ailment or indisposition. Anno: 40 ALR 662.

sound horse. See **sound animal.**

sounding in damages. Capable of being accurately measured in money. For damages only, as an action sounding in damages.

sound memory. See **sound and disposing mind and memory; sound mind.**

sound mind. The mind of a person who is sane and mentally competent. Characterizing ability of a testator to understand in a general way the nature and extent of his property, his relation to those who naturally have a claim to benefit from the property left by him, and the practical effect of the will as executed. Re Wilmoot's Estate (Fla) 66 So 2d 465, 40 ALR2d 1399; Re Hagan, 143 Neb 459, 9 NW2d 794, 154 ALR 573.

The term is commonly synonymous with "sane" as distinguished from "insane," and is itself as plainly descriptive of its meaning as any other definition would be. People v Brisbane, 295 Ill 241, 248, 129 NE 185, 188.

sound mind and memory. See **sound and disposing mind and memory.**

sound physical condition. Sound health; not necessarily perfect health. Not negated by a mere temporary indisposition. French v Fidelity & Casualty Co. 135 Wis 259, 115 NW 869.

See **sound health.**

sound price. See **warranty of soundness from sound price.**

sound signals. Signals by sound prescribed by statutory and administrative rules to control the navigation of ships and small watercraft. 12 Am J2d Boats § 18; 48 Am J1st Ship § 261.

sound title. A marketable title; a title not open to a reasonable doubt. 30A Am J Rev ed Jud S § 189; 56 Am J1st V & P § 167.

sound track. A tape or other contrivance upon which speech, song, and other sounds are imprinted for reproduction synchronized with a motion picture film. Foreign & Domestic Music Corp. v Licht (CA2 NY) 196 F2d 627.

sound truck. A motor vehicle equipped with a loudspeaker, used for advertising or the making of announcements upon the streets. 25 Am J1st High § 194.

sound value. An estimated value of securities not dealt in sufficiently to establish a market value by resort to market quotations. Anno: 133 ALR 1068. Permissibly the par value of long-term securities which are held, not for sale on the market but as investments, where there has been no default in payment of interest or of instalments of principal and there is absent any appraisal or offer for sale or other circumstance which indicates their value to be less. 9 Am J2d Bankr § 165. As used in a policy of insurance, the actual cash value of the property in its undamaged state or condition. 29A Am J Rev ed Ins § 1546.

sound vessel. The condition of a vessel on its first voyage. *Lynch v Postlethwaite* (La) 7 Mart 69.

source material. (1) Uranium, thorium, or any other material which is determined by the Atomic Energy Commission to be source material; or (2) ores containing one or more of the foregoing materials in such concentration as the Commission may by regulation determine from time to time. 42 USC § 2014(x).

sources of the law. The origins of legal principles in the legislative and judicial processes. Reported cases, authoritative textbooks, comprehensive text treatments, such as *American Jurisprudence* 2d, constitutions and statutes.

south. A word indicating a point on the compass, being due south, unless qualified or controlled by other words. 23 Am J2d Deeds § 248.

southeast quarter. See **fraction of section.**

Southern Interstate Nuclear Compact. A compact between several southern states for the purpose of providing the instrument and framework for a cooperative effort between the states to improve the economy of the South through the proper employment of nuclear energy. 6 Am J2d Atomic E § 46.

south one-half. See **fraction of section.**

South Sea Bubble. A ten million pound scheme for monopolizing the trade of England with Spanish-America, which was given form in 1711 and failed in 1720.

southwest quarter. See **fraction of section.**

souvent. Often.

sovereign. A ruler; a king; the supreme power in a government. A gold coin of Great Britain, equivalent in value to one pound.

"To the Constitution of the United States the term sovereign is totally unknown. There is but one place where it could have been used with propriety. But, even in that place it would not, perhaps, have comported with the delicacy of those who ordained and established that Constitution. They might have announced themselves 'sovereign' people of the United States: But, serenely conscious of the fact, they avoided the ostentatious declaration." *Chisholm v Georgia* (US) 2 Dall 419, 454, 1 L Ed 440, 455.

sovereign and inherent power. See **inherent power; sovereign power.**

sovereign immunity. The principle that the sovereign cannot be sued in its own courts or in any other court without its consent and permission; a principle which applies with full force to the several states of the Union. 49 Am J1st States § 91. The principle

that the United States is immune from suit except where it consents thereto, as by a statute such as the Federal Tort Claims Act. 28 USC §§ 1491 et seq.; 20 Am J2d Cts § 152. The principle that a sovereign state is bound to respect the independence of every other sovereign state, so that the courts of one country will not sit in judgment on the acts of the government of another, done within its own territory. 20 Am J2d Cts § 152.

sovereign nation. See **sovereign state**.

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sovereign people. See **people of the state; people of the United States**.

sovereign power. The power to make and enforce laws.

"By the sovereign power is meant the making of laws; for wherever that power resides, all others must conform to, and be directed by it, whatever appearance the outward form and administration of the government may put on. For it is at any time in the option of the legislature to alter that form and administration by a new edict or rule, and to put the execution of the laws into whatever hands it pleases; by constituting one or a few, or many executive magistrates, and all the other powers of the state must obey the legislative power in the execution of their several functions, or else the constitution is at an end." See 1 Bl Comm 49.

See **inherent power**.

sovereign prerogative. See **royal prerogative**.

sovereign right. A right which the state alone, or some of its governmental agencies, can possess. *City of St. Paul v Chicago, Milwaukee & St. Paul Railway Co.* 45 Minn 387, 397, 48 NW 17.

See **prerogative**.

sovereign state. A people permanently occupying a fixed territory, bound together by common laws, habits, and customs into one body politic, exercising through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace, and of entering into international relations with other communities. 30 Am J Rev ed Internat L § 10.

In the United States, each state constitutes a distinct and independent sovereignty, and consequently the laws of one state do not operate of their own force in any other state. 16 Am J2d Confl L § 4.

sovereignty. The power to govern; supreme political authority. That public authority which commands in civil society, and orders and directs what each citizen is to perform to obtain the end of its institution.

s.p. An abbreviation of **sine prole**.

space. The distance between things. Room for persons or things. The boundless expanse in all directions from the earth.

See **Aeronautics and Space Act**.

space of intersection. A term found in the federal statute respecting priorities as between mining claims where two or more veins intersect or cross each other. 30 USC § 41.

Some courts take the view that the phrase, "space of intersection," refers to intersection of the veins only, but others assume that it may mean intersection of the veins or of the claims themselves, depending upon the facts of the particular case. 36 Am J1st Min & M § 112.

spado. (Civil law.) A person without capacity to reproduce; an impotent person.

spadones. Plural of **spado**.

Spanish land grant. A grant made by the government of Spain of land formerly within its dominions but now within the territorial limits of the United States. *Bryan v Kennett*, 113 US 179, 28 L Ed 908, 5 S Ct 407.

span of horses. A term of horses, not merely a pair of horses. *Ames v Martin*, 6 Wis 361.

spare tire. An extra tire carried on a motor vehicle for possible use consequent to a puncture or other imperfection occurring in one of the tires. 24 Am J1st Garag § 26.

spark arrester. A device upon a chimney, sometimes required of the proprietor of an industrial plant in order to obviate or lessen the danger of fires ignited by sparks. Anno; 25 ALR 994.

sparring. Boxing, usually with gloves, without attempting to land a heavy blow.

See **boxing match; prize fight**.

sparsim. Sparsely; rarely.

spaying. The practice of removing the ovaries of a female animal, usually to prevent propagation. Sterilization of a female to prevent propagation.

S.P.C.A. Abbreviation of the **Society for the Prevention of Cruelty to Animals**. *Siemens' Estate*, 346 Pa 610, 31 A2d 280, 153 ALR 483, cert den 320 US 758, 88 L Ed 452, 64 S Ct 66.

spe. See **in spe**.

speaking demurrer. A demurrer which should be overruled as setting up a ground dehors the record, or a ground which to be sustained requires reference to facts not appearing on the face of the pleading attacked. 41 Am J1st Pl § 209.

speaking order. An order of court, such as an order granting a new trial, which contains matter which is explanatory and illustrative of the direction which is given by the order. *Duff v Duff*, 101 Cal 1, 35 P 437.

speaking with prosecutor. Making an arrangement for leniency in sentence.

special. Belonging to a certain or specific class, kind, genus or species; peculiar; particular; opposed to general.

special acceptance. An acceptance of a bill of exchange which specifies the place of payment.

See **qualified acceptance**.

special account. An account opened in a bank for a special purpose as the result of a special understanding and creating the relationship of trustee or bailee of the fund deposited on the part of the bank. *City Nat. Bank v Brink*, 98 Ind App 275, 187 NE 689.

See **special deposit**.

special act. See **private act; special legislation**.

special action. A statutory action.

See **extraordinary remedies**.

special action on the case. Same as **trespass on the case.**

special administration. The administration of the estate of a deceased person by a special administrator.

special administrator. An administrator of a decedent's estate appointed by the probate court to take charge of the property of the estate pending a contest or other delay in the appointment of an executor or administrator, the purpose of the appointment being to prevent loss of assets occurring in the absence of an authorized agent to collect debts due the decedent and to preserve the assets of the estate pending the appointment of a regular administrator or executor and the beginning of a regular administration. *State ex rel. Hamilton v Guinotte*, 156 Mo 513, 57 SW 281.

See **special letters of administration.**

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special agent. One authorized to do one or more specific acts in pursuance of particular instructions, to act in a particular transaction, or in a particular way. *Southern States Fire Ins. Co. v Kronenberg*, 199 Ala 164, 74 So 63.

special agreement. Same as **special contract.**

special appearance. An appearance for the sole purpose of objecting to the jurisdiction of the court, not operating as a submission of defendant's person to the jurisdiction of the court. *Re Blalock*, 233 NC 493, 64 SE2d 848, 25 ALR2d 818. An appearance testing the jurisdiction of the court over the defendant's person, including the question of sufficiency of the process or manner of service, or, in some jurisdictions, testing jurisdiction of the subject matter. 5 Am J2d *Appear* § 2.

special assessment. A local assessment; the levy of a burden upon property within a limited area for the payment for a local improvement supposed to be for the benefit of all property within the area. 48 Am J1st *Spec A* § 3.

The word "tax" as it is used in a statute is usually construed to have reference to taxation for general purposes, and not to local assessments. *McIlroy v Ugitt*, 182 Ark 1017, 33 SW2d 719, 73 ALR 1223. Local assessments do not come within the meaning of the word "tax" as used in the constitutional provision exempting lands of the state from taxation. *Re Simpson*, 43 Cal 2d 594, 275 P2d 467, 47 ALR2d 991.

In their ordinary sense, local assessments are not taxes, but they are taxes in the more general signification that they are a charge put upon property by authority of the lawmaking power. The general distinction is taken between taxes and local assessments that the former are forced contributions levied by the government alike upon all property, for the purpose of raising revenue for the support of the government without reference to the special benefits that will inure to the property thus taxed, while the latter are also forced contributions which are levied by the government, but upon certain particular property, with a view of raising revenue for certain designated purposes, having direct reference to the special benefits that will inure to the property thus taxed. *Shreveport v Prescott*, 51 La Ann 1895, 26 So 664; *Altman v Kilburn*, 45 NM 453, 116 P2d 812, 136 ALR 554.

special assessment bond. Same as **improvement bond.**

special assessment district. Same as **improvement district.**

special assessment lien. A statutory lien on property charged with a special or local assessment to secure the payment of the assessment. 48 Am J1st *Spec A* § 196.

special assumpsit. Assumpsit upon an express contract or promise. 1 Am J2d *Actions* § 15.

special attorney. See **attorney special; special counsel; special prosecutor.**

special authority. See **special power.**

special bail. See **bail below.**

special bailiffs. "Mean persons" employed by sheriffs to aid bailiffs of hundreds and to serve writs and executions and make arrests. See 1 Bl Comm 345.

special bailment. A bailment affecting the public interest in such a way that the law has imposed on the bailee a liability more stringent than that of an ordinary bailee. Anno: 93 ALR 834; 8 Am J2d Bailm § 6.

special bastard. A bastard who was born before the marriage of his parents who intermarry thereafter.

This was not bastardy by the ecclesiastical law, but by the common law, it is. See 3 Bl Comm 335.

special benefits. Benefits deductible in ascertaining the amount of damages to be awarded in eminent domain, as resulting from the improvement for which land is taken and peculiar to condemnee's property or interest, not being shared by all the property in the vicinity. 27 Am J2d Em D § 368.

special case. A term corresponding in English practice with "agreed case." *Germano v Gresham Fire & Acci. Ins. Soc.* (Australia) [1924] Vict LR 592. A case reserved for decision by the judges in bank or by a higher court. A proceeding unknown to the common law, arising under statute.

See **extraordinary remedies.**

special census. A census taken by the Bureau of the Census upon request or for a particular purpose. 14 Am J2d Census § 2.

special charter. A charter granted a corporation by special act of the legislature. 18 Am J2d Corp § 26. A charter of a municipal corporation granted by or under a statute other than one providing for the incorporation of municipal corporations generally.

special charter city. See **special charter.**

special commission. An administrative agency for a special purpose. *Wilson v Philadelphia School Dist.* 328 Pa 225, 195 A 90, 113 ALR 1401.

As the term was used in a constitutional prohibition against a legislative delegation of municipal functions to any "special commission," the object of the provision was held to be to prevent the state legislature from interfering with local governments by the appointment "of its own special commissions for the control of purely local matters." And it was held also that the aggregate body of qualified electors could not be regarded as a "special commission" within the meaning of the prohibition. *Ex parte Pfahler*, 150 Cal 71, 88 P 270.

special constable. A civilian sworn in to aid a constable in preserving the peace.

special contract. A contract under seal; a specialty.

The term has often been defined as being synonymous with the word specialty, meaning a contract under seal. Other authorities have treated it as a simple contract either written or parol. *McManus v Cassidy*, 66 Pa 260.

See **specialty.**

special counsel. An attorney at law employed by an attorney general of a state to assist him in the discharge of his official duties. 7 Am J2d Atty Gen § 3. An attorney at law employed by the Attorney General of the United States in connection with

the functions of the Department of Justice or, where the public interest so requires, as an assistant to a United States District Attorney in a particular case. 7 Am J2d Atty Gen § 4.

See **special prosecutor**.

special court. A court created by legislative act. *State v Allen*, 117 Ohio St 470, 159 NE 591.

special court-martial. One of three kinds of court-martials, intermediate, a general court-martial and a summary court-martial, conducted before a body of at least three commissioned officers, and limited in jurisdiction generally to noncapital offenses.

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special custom. A local or particular, as distinguished from a general, custom. 21 Am J2d Cust & U § 6.

special damages. Such compensatory damages as arise from the special circumstances of the case, that is, the peculiar circumstances of the case, and may, if properly pleaded, be added to the general damages. 22 Am J2d Damg § 15. The natural, but not the necessary, result of an injury. 22 Am J2d Damg § 15. Damages for breach of contract arising naturally but not necessarily from the breach. *Parker v Harris Pine Mills*, 206 Or 187, 291 P2d 709, 56 ALR2d 382. Damages sustained by a plaintiff beyond the mere loss of his property. *Sarkesian v Cedric Chase Photographic Laboratories*, 324 Mass 620, 87 NE2d 745, 12 ALR2d 899. In the law of libel and slander, loss of a temporal or material advantage of any kind, such as loss of an emolument, a favorable marriage, a profitable employment, or even substantial hospitality. 33 Am J1st L & S § 204.

The distinction between general and special damage arising from breach of contract are not absolute, but relative; in other words, damage which is general in relation to a contract of one kind may be classified as special in relation to another. *Kerr S.S. Co. v Radio Corp. of America*, 245 NY 284, 157 NE 140, 55 ALR 1139, cert den 275 US 557, 72 L Ed 424, 48 S Ct 118.

special demurrer. A demurrer aimed at a particular defect in a pleading, which must be assigned as the ground of demurrer. 41 Am J1st Pl § 225. A demurrer which lies only for defects in form and adds to a general demurrer a specification of the particular ground of exception. 41 Am J1st Pl § 206. A demurrer directed to a matter of form rather than substance, being concerned with matters in abatement, ambiguity, uncertainty, and the like. 41 Am J1st Pl § 204.

special deposit. A deposit delivered into the possession of a bank to be kept separate and distinct from the general assets of the bank and to be returned or delivered intact on demand, the title to the thing deposited remaining in the depositor. 10 Am J2d Banks § 360. The placing of specific money or property in the possession of a bank under terms such that the bank is under obligation to return the identical thing deposited to the depositor, *Keyes v Paducah & I. R. Co.* (CA6 Ky) 61 F2d 611, 86 ALR 203, no relation of debtor and creditor between the bank and the depositor being created. *Bassett v City Bank & T Co.* 115 Conn 1, 160 A 60, 81 ALR 1488.

The state courts do not agree as to whether a deposit made in a bank for special purposes constitutes a trust fund in the hands of the bank, but the federal courts hold that if the deposit is made as a general deposit, the fact that it is made for the purpose of providing a credit which is to be used thereafter for a special purpose does not give it the status of a trust fund in the hands of the bank. *Santee Timber Corporation v Elliott*, 7 F2d 179.

See **special account**.

special deputy sheriff. A deputy sheriff who is an officer pro hac vice (for the particular occasion); to execute a particular writ on some certain occasion.

He acts under a specific, not a general appointment and authority. See *Allen v Smith*, 12 NJL 159, 163.

special election. An election arising from some exigency or special need, such as filling a vacancy in office or submitting to the electors a measure or proposition for adoption or rejection. 25 Am J2d Elect § 3.

special emergency. Something more pressing than the usual emergency, exigency, crisis, or predicament; a sudden, acute, and taut situation not foreseeable in time to deliberate and exercise judgment or discretion. *People v Uncapher*, 207 Misc 960, 141 NYS2d 377.

special errand rule. The rule that where an employee's duties require him to circulate in a general area with no fixed place or hours of employment, or to go to and from his home to various outside places of work, and his employer furnishes him with a motor vehicle to use in his work, it can be found that he continues in the service of his employer, for the purposes of the liability of his employer for an injury resulting from his negligence in the operation of the vehicle, until he actually reaches home. Anno: 52 ALR2d 365, § 7.

special estate tail. An estate in tail under a limitation to one and certain specified heirs of his body, as the heirs of his body begotten of a certain wife. 28 Am J2d Estates § 45.

special exception. An exception directed to a matter of form rather than substance.

See **special demurrer**.

special execution. An execution upon a judgment which specifies the particular property to be sold. 21 Am J2d Exec § 17.

special exemption from taxation. An exemption from taxation granted to a particular class of persons, such as veterans, old persons, or persons of limited means without earning power. *Eyers Woolen Co. v Gilsum*, 84 NH 1, 64 ALR 1196, 146 A 511. An exemption from taxation granted by contract. 51 Am J1st Tax § 507.

special fee conditional. A fee simple conditional limited to one and the heirs of the body by a particular spouse. Anno: 114 ALR 604; 28 Am J2d Est § 38.

special finding. An answer made by the jury to an interrogatory, being distinguished from a special verdict in the fact that it always accompanies a general verdict and further in the fact that it need not cover all the material issues. 53 Am J1st Trial § 1005. A finding of fact made by the court in a trial to the court. Not a mere report of the evidence, but a statement by the court of the ultimate facts on which the law of the case must determine the rights of the parties; a finding of the propositions of fact which the evidence establishes, and not the evidence on which those ultimate facts are supposed to rest, such finding having the same effect as the verdict of a jury. *Rhodes v United States Nat. Bank (CA7 Ill)* 66 F 512.

special franchise. A franchise distinct from the franchise to be a corporation or the franchise in the sense of the powers granted in the charter. 18 Am J2d Corp § 66. A right to do something in a public street or place which, except for the grant under which it is exercised, would be a trespass. *People ex rel. New York C. & H. R. R. Co. v Gourley*, 198 NY 486, 92 NE 398; *People ex rel. Harlem River & Port Chester Railroad Co. v State Board of Tax Comrs.* 215 NY 507, 109 NE 569.

The right to be a corporation is frequently called a "franchise," as it is in one sense, but not in the sense that a grant of a right to build a railroad in a public street is a franchise; and it is unfortunate

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that the same word is used with widely different meanings, for it leads to confusion unless qualified by an appropriate adjective, such as "general" or "special." The right to be a corporation, or the corporate right of life, is inseparable from the corporation itself. It is part of it, and cannot be sold or assigned. That franchise is general and dies with the corporation, for it cannot survive dissolution or repeal. On the other hand, grants to do something in the public streets, or special franchises, are not part of the corporation. They can be made to an individual with the same legal force or effect as to a corporation. Unless there is some legislative restriction, they can be mortgaged and sold. They are no part of corporate life if owned by a corporation, any more than they are no part of corporate life if owned by an individual. *Lord v Equitable Life Assur. Soc.* 194 NY 212, 87 NE 443.

special fund doctrine. The principle that a commitment of a municipal corporation is not subject to debt limit provisions where the obligation is payable out of a special fund and the municipality is not liable to pay the obligation out of its general funds in the event the special fund proves insufficient, and the transaction by which the indebtedness is incurred cannot in any event deplete the general resources of the municipality. 38 Am J1st Mun Corp § 468.

special grand jury. A grand jury summoned where there has been a failure to draw or summon a regular grand jury or where the regular grand jury has been discharged. 24 Am J1st Grand J § 17.

special guaranty. A guaranty which names certain definite persons as obligees. 24 Am J1st Guar § 15. A guaranty limited to the person to whom it is addressed, usually contemplating a trust or reposing a confidence in that person. *Tidioute Sav. Bank v Libbey*, 101 Wis 193, 71 NW 182.

special guardian. A guardian appointed to protect the interests of an infant or incompetent in a proceeding already instituted. A guardian ad litem is appointed for the purpose of prosecuting or defending an action; a special guardian is appointed merely to protect the interests of the ward by inquiring into the proceedings and seeing to it that the ward is not prejudiced by anything which is done in the proceedings.

special healing. A purported treatment of sickness or healing of disease by methods other than those practiced by physicians. 41 Am J1st Phys & S § 31.

special heir. See **heir special**.

Specialia generalibus derogant. Special words or provisions restrict or modify general ones.

"A statute which treats of persons of an inferior rank cannot by any general word be so extended as to embrace a superior; the class first mentioned is to be taken as the most comprehensive." *Lewis v Fisher*, 80 Md 139, 30 A 608.

speciali gratia. See **ex speciali gratia**.

special imparlance. An imparlance reserving exceptions and objections.

special income tax. A tax on a special type of income, particularly income previously escaping taxation. *Welch v Henry*, 305 US 134, 83 L Ed 87, 59 S Ct 121, 118 ALR 1142, reh den 305 US 675, 83 L Ed 437, 59 S Ct 250.

special indorsement. An indorsement of a negotiable instrument which specifies the person to whom or to whose order the instrument is to be payable. 11 Am J2d B & N § 361.

special injunction. A term of the early English practice for an injunction to prevent irreparable injury in a case where the preventive aid of the court of equity was the ultimate and only relief sought, being distinguished in this respect from the common injunction which was granted in aid of or as secondary to another equity. 28 Am J Rev ed Inj § 10.

special inquiry officer. An officer of the immigration service charged with duties in the determination of admission or exclusion of an alien. 8 USC § 1226(a).

special interrogatories. Interrogatories contained in or referred to in a bill in equity, constituting a definite part of such a bill according to traditional equity practice. 27 Am J2d Equity § 181. Interrogatories directed to the jury upon a request for a special verdict or special findings. 53 Am J1st Trial § 1005.

special issue. A plea denying some one material and traversable allegation in the declaration, and concluding to the contrary.

Such a plea never advances new matter, but merely denies some particular material and traversable allegation, the denial of which is, in effect, a denial of the entire right of action. *Kimball v Railroad Co.* 55 Vt 95, 97.

See **special pleading**.

specialist. A physician who confines his practice to specific diseases or disabilities. A physician who holds himself out as having special knowledge and skill in the treatment of a particular organ or disease and who is bound to bring to the discharge of his duty to patients employing him as a specialist that degree of skill and learning ordinarily possessed by physicians who devote special attention and study to such organ or disease, having regard to the present state of scientific knowledge. 41 Am J1st Phys & S § 90. In the broad sense, any person who concentrates in practice upon a division of a profession, occupation, or calling.

specialized court. See **court of limited jurisdiction**.

special judge. A judge selected to act in the absence, disability, or disqualification of the regular judge, or under other circumstances, as provided by constitution or statute. 30A Am Rev ed Judges § 237.

Some courts make a distinction between a judge pro tem and a special judge, saying that the former is appointed for a term of court or some part thereof, during which time he exercises all the functions of the regular judge, while a special judge is appointed to act in a particular case. 30A Am J1st Judges § 238.

special judgment. Same as **judgment in rem**. *Smith v Colloty*, 69 NJL 365, 368, 55 A 805.

special jurisdiction. See **court of limited jurisdiction**.

special jury. Same as **struck jury**.

special law. See **private act**; **special legislation**.

special legislation. A statute which does not have a uniform operation, relating to particular persons or things of a class, either particularized by the express terms of the act, or separated by any method of selection from the whole class to which the law might, but for such limitations, be applicable. 50 Am J1st Stat § 7. A statute which by force of a stated or inherent limitation arbitrarily excludes some persons, places, or things upon which otherwise it would operate. *Iowa Motor Vehicle Asso.*

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v Board of Railroad Comrs. 207 Iowa 461, 221 NW 364, 75 ALR 1. A statute making a classification not based on any reasonable ground. *Nicholls v Spokane Public School District*, 195 Wash 310, 80 P2d 833. See **special legislation, D**, 1219.

special letter of credit. A letter of credit addressed exclusively to an individual therein named. 24 Am J1st Guar § 22.

special letters of administration. The letters granted to a special administrator.

See **special administrator**.

special license. A license required of certain kinds of dealers, such as peddlers and hawkers, as well as of those who deal in certain kinds of merchandise, such as retailers of intoxicating liquors or medicines. 33 Am J1st Lic § 51.

special lien. A charge upon a particular piece of property, by which it is held for the payment or discharge of a particular debt or duty. 33 Am J1st Liens § 5.

If a lien extends to everything, acquired and to be acquired, it is not special merely because it was created by a mortgage or other express contract. *Green v Coast Line Railroad Co.* 97 Ga 15, 24 SE 814.

special lien for services. The lien of an artisan or mechanic upon the personal property of another for services rendered upon the same.

See **charging lien; mechanic's lien.**

special limitation. See **conditional limitation.**

specially appear. See **appear specially.**

special master. One to whom a matter is referred by a court of bankruptcy to hear and report his findings of fact and conclusions of law. 9 Am J2d Bankr § 107.

special meeting. A meeting of the directors, or of the stockholders, of a corporation other than the annual meeting of stockholders or a regular meeting of the board of directors.

special mobile equipment. Equipment of an automobile for a special purpose, such as a rack for the display of garments by a salesman, not connected with the actual operation of the vehicle in reference to driving it upon the highway.

special motion. Any motion which must be brought on for hearing upon supporting papers. A motion which affects substantial rights and is not to be granted ex parte. 37 Am J1st Motions § 14.

special nuclear material. (1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material determined by the Atomic Energy Commission to be special nuclear material, exclusive of source material; or (2) any material artificially enriched by any of the foregoing, exclusive of source material. 42 USC § 2014(y).

special occupant. The status of an heir in possession, but under the terms of a grant, not by right of inheritance. See 2 Bl Comm 259.

special owner. Some person holding the property with the consent and as the representative of the actual owner.
The term is applied to personal property only. See *Frazier v State*, 18 Tex App 434, 441.

special paper. See **clean paper.**

special partner. A partner in a limited partnership protected against general liability for the firm debts. 40 Am J1st Partn § 511.

special partnership. Same as **limited partnership.**

special place. A certain bank, store, or other building within a city or town, as distinct from the city or town itself.

special plea. A plea by the accused in a criminal case other than a plea of guilty or not guilty. 21 Am J2d Crim L §§ 458 et seq.

See **special pleading.**

special pleading. A pleading required for presentation of special matters of defense, that is, matters going beyond a mere denial of plaintiff's allegations. 41 Am J1st Pl § 144. A pleading in excuse or justification; a pleading in confession and avoidance. *Gelston v Hoyt (US)* 3 Wheat 246, 327, 4 L Ed 381, 401.

Special matters of defense should be specially pleaded. 41 Am J1st Pl § 150.

special police. Extra police engaged for duty on an extraordinary occasion, such as a celebration attended by a large crowd of people, some of whom are likely to be persons over whom there should be police surveillance.

special power. The authority of an agent to do only a specific act or acts in pursuance of particular instructions, or with restrictions necessarily implied from the act to be done. 3 Am J2d Agency § 6.

See **special power of appointment; special power of attorney.**

special power of appointment. A power of appointment under which the donee of the power is restricted to passing on the property to certain individuals or class of individuals designated or described in the instrument which creates the power. Marx v Rice, 1 NJ 574, 65, A2d 48, 9 ALR2d 584.

Under statute a special power in trusts exists:(1) when the disposition which it authorizes is limited to be made to any particular person other than the grantee of such power; (2) when any person or class of persons, other than the grantee, is entitled to any benefit from the disposition or charge authorized by the power. Re Uihlein's Will, 264 Wis 362, 59 NW2d 641.

special power of attorney. A power couched in specific rather than general terms, as a power to sell, not any land owned by the principal, but specified land of the principal; a power to sell to a particular purchaser, not any purchaser; or a power to sell on specified terms, not on any terms. White v Breen, 106 Ala 159, 19 So 59.

special power in trust. See **special power of appointment.**

special privilege. A right, power, franchise, immunity, or privilege granted to or vested in a person or class of persons, to the exclusion of others and in derogation of common right. Plattsmouth v Nebraska Telephone Co. 80 Neb 460, 114 NW 588.

special proceeding. A civil remedy other than an ordinary action. Hazelton-Moffit Special School District v Ward (ND) 107 NW2d 636. Inclusive of every special statutory remedy which is not in itself an action. Sullivan v Storz, 156 Neb 177, 55 NW2d 499, 34 ALR2d 1142. A proceeding instituted for the appointment of an ancillary receiver or for the exercise of summary jurisdiction. Knauth v Latham, 242 US 426, 61 L Ed 404, 37 S Ct 139. A proceeding before an administrative agency. Ames v Department of Labor & Industry, 176 Wash 509, 30 P2d 239, 91 ALR 1392. A proceeding characterized by commencement upon petition and notice,

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rather than upon service of summons or other form of regular process.

Nearly thirty years prior to the adoption of the California Constitution of 1879, special cases and special proceedings had been defined by the state supreme court as something entirely different, as new cases, the creation of statute, and the special proceedings under which were unknown to the general framework or courts of law and equity, and as not including any class of cases for which courts of general jurisdiction had always supplied a remedy. See Bixler's Appeal, 59 Cal 550, 555.

special property. An interest in property other than full ownership, such as that of a bailee in possession, a lienor, a mortgagee, etc.

special prosecutor. Counsel employed to assist the prosecuting attorney in the conduct of a criminal prosecution. 42 Am J1st Pros Atty § 10.

special rate. A railroad rate granted specially for a particular shipment of goods. 13 Am J2d Car § 185.

special reason. A term of art for a circumstance calling for a variance in the application of a zoning regulation. 58 Am J1st Zon § 196.

special receiver. A receivership, as in a mortgage foreclosure, wherein the receiver takes custody only of particular property. 45 Am J1st Rec § 3.

special registration. A registration of voters required for and effective only in reference to a particular election, for example, a local option election. 30 Am J Rev ed Intox L § 97.

special relief. Specific relief prayed for in a complaint, bill, or petition in equity. 27 Am J2d Equity § 182.

special replication. A replication or reply setting up new matter in avoidance of the defenses pleaded in the answer. 41 Am J1st Pl § 178.

special retainer. A fee paid to an attorney preliminary to a particular case or litigation.

special rule of court. An order of court adopting a rule of practice or a method of procedure in the particular cause before the court, as a departure from the usual practice or procedure.

"If under the stipulation, the judge was to abdicate for a time, and proceed, as an arbitrator, to hear and decide the facts and the law, and upon such findings was again to proceed as a court to pronounce judgment, this was an adoption of that method of trying the cause. The submission was thus made a special rule of court, and was not revocable." *Hastings v Jones* (CA7 Ill) 18 F2d 833.

special salvage. A reward in the nature of salvage made to members of the crew of the vessel saved. 47 Am J1st Salv § 20.

special seal. A seal adopted by a corporation different from its corporate seal, for a special occasion. 18 Am J2d Corp § 154.

special session. Any session of a legislative body which is lawfully held and which is not a regular session or a part or an adjournment of a regular session. *People ex rel. Carter v Rice*, 135 NY 473, 31 NE 921.

See **sessions of the peace.**

special statutory proceeding. See **extraordinary remedies; special proceeding.**

special stop. A stopping place on the line of a carrier not noted in its schedule or posted as a stop.

special statute. See **private act; special legislation.**

special tax. A tax levied for a particular governmental purpose. 48 Am J1st Spec A § 3. A tax levied for a special public purpose.

A special assessment for local improvement is not such a tax. *Illinois Central Railroad Co. v Decatur*, 126 Ill 92, 18 NE 315.

special taxing district. A district fixed by legislative determination, without reference to town, county or regular taxing district lines, as a district which is to receive a special benefit and to bear the expense of a local improvement by means of a local assessment. 48 Am J1st Spec A § 115.

special term. A term of court, contra-distinguished from a regular or adjourned term, appointed by the presiding officer or officers, held at an unusual time, for the transaction of some particular business. *Wightman v Karsner*, 20 Ala 446, 452. In some jurisdictions, a term for the transaction of court business other than jury trials.

special territorial jurisdiction. See **extraterritoriality.**

special ticket. A ticket issued by a carrier good only upon certain trains and for a limited time, and to be used only in accordance with terms prescribed therein. 14 Am J2d Car §§ 813, 814.

special traverse. A form of denial at common law, the design of which is to explain or qualify the denial, commencing with the words "absque hoc" or the English equivalent "without this, that," then pursuing the material portion of the words of the allegation which it denies. 41 Am J1st Pl § 190.

special trust. An active or real, as distinguished from a dry, trust.

specialty. An instrument under seal wherein an obligation is embodied. *Mutual Trust & Dep. Co. v Boone* (Ky) 267 SW2d 751, 45 ALR2d 962. A contract under seal. A designation sometimes given to a bond, that is an obligation under seal, as distinguished from a promissory note or other simple contract. *Commonwealth v Smith* 92 Mass (10 Allen) 448. The practice of a specialist in a profession.

Certain decisions have denominated statutes as specialties which give a right to an ascertained or readily ascertainable money liability upon which an action of debt may be maintained. *Williamson v Columbia Gas & Electric Corp.* (DC Pa) 27 F Supp 198.

See **special contract; specialist.**

specialty debt. See **specialty.**

specialty hauler. A carrier which confines its transportation service to a special class or classes of property. *Carolina Freight Carriers Corp. v United States* (DC NC) 38 F Supp 549, affd 315 US 475, 86 L Ed 971, 62 S Ct 722.

special use of highway. The use of street or highway for purposes other than those of travel and transportation. 25 Am J1st High § 168.

special venire. A venire issued by the court to summon jurors after the general panel has become exhausted and additional jurors are required to complete a trial jury. Additional jurors called in case of a deficiency in or exhaustion of the regular jury panel. 31 Am J Rev ed Jury § 91.

special venireman. See **special venire.**

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special verdict. A verdict finding the facts, in response to interrogatories submitted to it, without a conclusion as to the party prevailing in the case, such being left to the determination by the court upon the application of the law to the facts as found by the jury. 53 Am J1st Trial § 1005.

special warranty. A covenant of warranty contained in a deed, which is limited or restricted to certain persons or claims. In its most usual form, a warranty only against claims held by, through, or under the grantor. *Central Life Assur. Soc. v Impelmans*, 13 Wash 2d 632, 126 P2d 757. An implied warranty on the sale of a chattel ordered by the purchaser for a special purpose that the chattel is fit for that purpose. 46 Am J1st Sales § 346.

special warranty deed. A deed which contains a covenant of special warranty rather than a covenant of general warranty.

See **special warranty.**

specie. Gold or silver coins of the coinage of the United States. *Belford v Woodward*, 158 Ill 122, 41 NE 1097.

species. A sort, a kind, a class subordinate to a genus, which is a class embracing many species.

The expression "an animal of the horse species" would, therefore, only include the animals known as stallions, geldings, mares, fillies and colts. *Smythe v State*, 17 Tex App 244, 251.

species facti. The kind or character of the act.

specific. Definite. Explicit.

specification. A statement in detail. A statement of grounds of opposition to the discharge of a bankrupt. 9 Am J2d Bankr § 718. The doctrine under which a change made by one person in the species of a substance or article belonging to another, passes title from the owner to him who wrought the change. 1 Am J2d Access § 1. The technical name of that part of the formal charge made against a defendant in court-martial proceedings which sets forth the acts or omissions of the accused relied upon as the legal constituents of the offense. 36 Am J1st Mil § 98.

specification of error. The setting forth in an assignment of error on appeal the alleged error committed by the lower court which is relied upon as a ground of reversal. 5 Am J2d A & E § 648.

specifications. A product of architectural services. A statement in detail of the manner in which a building or other improvement is to be constructed, including the materials to be used. 5 Am J2d Arch § 3; 13 Am J2d Bldg Contr § 12. A written description of an invention and the discovery thereof to be filed with an application for a patent. 40 Am J1st Pat § 85.

The purpose of the statutory requirement that an application for a patent shall contain a written description of the invention and discovery, and, in the case of a machine, the principle thereof, and shall particularly point out and distinctly claim the part, improvement, or combination which the applicant claims as his invention or discovery is not only that any person skilled in the art to which it pertains may construct and use it after the expiration of the patent, but also to inform the public during the life of the patent of the limits of the monopoly asserted, so that it may be known which features may be safely used or manufactured without a license, and which may not. 40 Am J1st Pat § 85.

specific bequest. See **specific devise**; **specific legacy**.

specific criminal intent. See **specific intent**.

specific denial. A denial by the defendant in his answer addressed to a specific substantive fact alleged by the plaintiff in his pleading. 41 Am J1st Pl § 150.

specific deposit. A deposit of money or other property for some specific and particular purpose; as where a note is deposited for collection, or money is deposited to pay a particular note. *Officer v Officer*, 120 Iowa 389, 94 NW 947.

See **special deposit**.

specific devise. A devise of real estate specifically described, or a portion or share thereof, or a devise of all the testator's "right, title and interest" in real estate specifically described. 57 Am J1st Wills § 1404.

specific devisee. One named in a will as the recipient of a specific devise.

specific gravity. The ratio of the weight of a substance to that of an equal volume of another substance used as a standard. *Ohio Oil Co. v Conway*, 281 US 146, 74 L Ed 775, 50 S Ct 310.

specific insurance. Insurance against a specific peril or in a specific amount. Anno: 13 ALR2d 725. Insurance under a policy covering particular property specifically, as contrasted with insurance under a blanket policy.

specific intent. The intent to commit the very forbidden act charged as the offense in a criminal prosecution. 21 Am J2d Crim L § 82.

Specific intent is present when from the circumstances the offender must have subjectively desired the prohibited result. State v Daniels, 236 La 998, 109 So 2d 896.

specific legacy. A bequest of a particular, individualized chattel, fund, or portion of the testator's personal estate, which is set apart from the balance of his property and which is differentiated from all other articles or funds of the same or a similar nature; a bequest which may be satisfied only by delivery of the specific object, fund, or portion designated, and not by the receipt of some equivalent in money or property. Henderson v First Nat. Bank, 189 Ga 175, 5 SE2d 636, 128 ALR 816; Gorham v Chadwick, 135 Me 479, 200 A 500, 117 ALR 805.

specific legatee. One named in a will as the beneficiary of a specific legacy.

specific lien. A special lien. 33 Am J1st Liens § 5.

specific performance. The actual accomplishment of a contract by the party bound to fulfill it. Guadalupe County Board of Education v O'Bannon, 26 NM 606, 195 P 801. The remedy by which a party to a contract is compelled to do precisely what he ought to have done without being coerced by a court. Edwards v Tobin, 132 Or 38, 284 P 562, 68 ALR 152. The equitable remedy of compelling performance of a contract as distinguished from an action for damages at law for breach through nonperformance. Acme Food Co. v Older, 64 W Va 255, 61 SE 235.

specific taxes. Taxes of a fixed amount by the head or number, or by some standard of weight or measurement and requiring no assessment other than a listing or classification of the subjects to be taxed.

Poll taxes are invariably specific taxes and excises are commonly specific, although the modern tendency is toward ad valorem taxation even in case of

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excises, as being more consonant with justice. See 51 Am J1st Tax § 26.

specific traverse. See **special pleading; specific denial.**

specified person. A term of art in the law of negotiable instruments, having reference to an existing person capable of indorsing the instrument and of being a party to a contract. Bergman v Avenue State Bank, 284 Ill App 516, 1 NE2d 432.

specify. To mention with particularity. To make a specification.

See **specification; specifications.**

spectacles. Eyeglasses. Sights which are impressive.

speculate. To take the risk of loss in view of possible gain. Arentsen v Moreland, 122 Wis 167, 99 NW 790. To buy or sell with the expectation of profiting by rise or fall in price; often to engage in hazardous business transactions for the chance of unusually large profits. Clucas v Bank of Montclair, 110 NJL 394, 166 A 311, 88 ALR 302.

speculative damages. Damages not proved with reasonable certainty, the trier of the fact being left to speculate as to the actual damages suffered by the plaintiff. 22 Am J2d Damg § 24.

Damages are not speculative merely because they cannot be computed with mathematical exactness, if under the evidence they are capable of reasonable approximation. Hawkinson v Johnston (CA8 Mo) 122 F2d 724.

"So long as the jury are considering the material pecuniary injury, and the physical pain, their inquiry relates to what are termed actual damages; but when authorized by a vicious intent of the wrongdoer, they turn to the realm of mental anguish, public indignity, wounded sensibility, etc., the damages may more appropriately be described as presumptive, speculative, or imaginary." *Murphy v Hobbs*, 7 Colo 541, 5 P 119, 123.

speculative or trading value. The value of securities based upon a possibility or probability, depending upon the future happening of certain contingencies respecting the affairs of the company issuing the securities, that they would in the future acquire a substantial cash market value. *Haight v Stewart*, 36 Cal App 514, 172 P 769.

speculative security. A stock, bond, or other security the value of which materially depends on proposed or promised future promotion or development. Anno: 87 ALR 81.

The term has been defined by a state blue sky law as including a stock, bond, note, contract, or other security, which shall, in subscription, issuance, sale, transfer, negotiation, or distribution, be represented to yield a profit to the purchaser or other transferee of more than eight per cent on the price at which it is offered. *Superior Producing & Refining Co. v Handlan, Hearne & Co.* 100 W Va 547, 548, 131 SE 857.

speculator. See **speculate; ticket speculator.**

speech freedom. See **freedom of speech and of the press.**

speed. Rapidity of motion. Application of *Reo Motor Car Co.* 57 App DC 9, 16 F2d 349.
See **moderate speed.**

speeding. The offense of exceeding a speed limit.

speed laws. Statutes and ordinances regulating the speed of vehicles upon street or highway in the interest of public safety. 7 Am J2d Auto §§ 180 et seq.

speed limit. A restriction by statute or ordinance upon the speed at which a motor vehicle may be operated upon highway or street, usually a maximum, but sometimes a minimum, limit. 7 Am J2d Auto §§ 180 et seq. A restriction imposed by statute or ordinance upon the speed at which a motorboat may be operated upon public waters. 12 Am J2d Boats § 15.

speed meter. See **radar speed meter.**

speedometer. An instrumentality in a motor vehicle, in view of the driver, which indicates the speed at which the vehicle is being driven.

speed trap. A watch maintained, whether in person or through an instrumentality, for the particular purpose of detecting violations of speed laws in a particular section of street or highway. 39 Am J1st Obst J § 16.

speed-watch. A means of measuring speed of a motor vehicle, consisting of two rubber hoses set across the highway at a measured distance, and so equipped and constructed that when the front wheels of a vehicle strike the first hose, a clock is set in operation, and when the wheels strike the second hose, the clock stops, so that a reading of the speed of the vehicle in miles per hour is recorded. *People v Duskin*, 11 Misc 2d 945, 174 NYS2d 527.

speedy trial. A right of an accused. 21 Am J2d Crim L § 241. A trial conducted according to fixed rules, regulations, and proceedings of law, free from vexatious, capricious, and oppressive delays. *State v Jackson*, 228 Or 371, 365 P2d 294, 89 ALR2d 1225; *Gerchman v State*, 206 Tenn 109, 332 SW2d 182.

The constitutional and statutory right of one accused of a criminal offense to a speedy trial is a right which is personal to the accused alone and one in which the state has no special interest, and it has been held without question that he may waive his right in that respect. Anno: 129 ALR 574.

Spencer's Case. A leading English case on the law of covenants. 5 Coke 16a, 77 Eng Reprint 72.

The first resolution in Spencer's Case, if regarded alone, implies that a covenant cannot run with the land if it relates to a thing not in esse. The second resolution, however, makes it clear that a covenant relating to a thing not in esse may run with the land if the thing to be done relates to and touches, and is not merely collateral to, the land, and if the intention of the parties that the covenant should run with the land is shown by the covenant. 20 Am J2d Cov § 30.

spendthrift. One so prodigal, profligate, or drunken, that there is need for the appointment of a guardian. 25 Am J1st G & W § 20. In common usage, a careless spender; one who does not know the value of money.

spendthrift trust. A trust created to provide a fund for the maintenance of the beneficiary which shall be secure against his improvidence or incapacity. Huestis v Manley, 110 Vt 413, 8 A2d 644. A trust which restrains either voluntary or involuntary alienation by the beneficiary of his interest in the trust, or which, in other words, bars such interest from seizure in satisfaction of his debts. Keelers' Estate, 334 Pa 225, 3 A2d 413, 121 ALR 1301.

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spe recuperandi. In the hope of recovering.

spermatozoa. Seminal fluid. State v Perry, 41 W Va 641, 646.

spes. Hope.

spes accrescendi. The hope of surviving.

Spes est vigilantis somnium. Hope is the dream of the vigilant man.

Spes impunitatis continuum affectum tribuit delinquendi. The hope of impunity offers a constant temptation to delinquency.

spes recuperandi. The hope of recovering; the expectation of receiving compensation or indemnity. Aetna Fire Ins. Co. v Tyler (NY) 16 Wend 90.

spiffs. A mercantile term for goods which are not in demand. Anderson v Burg & Sons, 170 Minn 53, 55, 212 NW 9.

spike mike. An electronic listening device consisting of a microphone attached to a foot-long spike, with an amplifier, a power pack, and earphones, used by police by inserting the spike through a wall separating an observation post from premises suspected of being used for criminal purposes, until the spike contacts a heating duct serving the suspect premises, so that conversations throughout the premises are audible to police officers listening with earphones. Silverman v United States, 365 US 505, 5 L Ed 2d 734, 81 S Ct 679.

spill. A gate, also called a waste gate, through which the waste or superfluous water in an irrigation ditch is allowed to run off. Howell v Big Horn Basin Colonization Co. 14 Wyo 14, 81 P 785.

spillway. A channel to carry off water from a reservoir.

See **spill.**

spinal block. Anesthesia by desensitizing the nerve roots at the point where they reach the spine. Anno: 53 ALR2d 158.

spinal puncture. A means of obtaining a sample of a bodily component for chemical analysis in aid of a physical examination. 23 Am J2d Dep § 226.

spin-off. The divesting by a corporation of its stock in another corporation, sometimes required by the judgment or decree in a suit under the Anti-trust Act.

spinster. An unmarried female some years past marriageable age.

spirit of Constitution. The true meaning of a provision of the Constitution, although not explicit, because in accord with the general purpose of the provision. 16 Am J2d Const L § 71.

spirits. See **ardent spirits; spiritous liquor.**

spiritual. Pertaining to the soul rather than the physical body of man. The higher as distinguished from the material or carnal nature of man. The relation between man and God.

As the word is used to define hopes and fears which may be held out to a person charged with crime when a confession is sought, it has been held to mean that which pertains to the soul or higher endowments of the mind in its relation to the Spirit of God, the Holy Spirit, and that which pertains to our holy religion. The spiritual nature of man would be his higher self, not the carnal. Johnson v State, 107 Miss 196, 65 So 218.

spiritual corporation. A church or ecclesiastical corporation, such as a bishop of the Episcopal Church. An incorporated religious society.

spiritual courts. Ecclesiastical courts.

spiritualism. A belief that the spirits of the dead can communicate with the living through the agency of persons called "mediums," who, under such belief, are credited with the possession of qualities or gifts not possessed by mankind in general. Middleditch v Williams, 45 NJ Eq 726, 17 A 826.

See **medium; seance.**

spiritualities. A bishop's income or revenue.

spiritual lords. See **lords spiritual.**

spirituous liquor. A liquor composed, in whole or in part, of alcohol extracted by a process of distillation. 30 Am J Rev ed Intox L § 12.

spital. A hospital, especially one for patients having loathsome diseases.

spite fence. A fence of no beneficial use to an owner of premises, but erected and maintained by him for the purpose of annoying his neighbor. 1 Am J2d Adj L § 106.

spite structure. A structure which is of no beneficial use or pleasure to the owner but was erected and is maintained by him for the purpose of annoying his neighbor or with the malicious motive of injuring the neighbor by depriving the latter's premises of light, air, or view. Racich v Mastrovich, 65 SD 321, 273 NW 660.

See **spite fence.**

splash dam. A dam erected for the purpose of making a stream capable of floating logs. 34 Am J1st Logs § 72.

splash guard. A flap or apron attached to the fender of a motor vehicle so as to minimize the spray or splash of water or mud to the rear of the vehicle. *People v Kiser*, 112 Cal App 2d 903, 254 P2d 1125.

split convention. A political convention held by a faction of the party. A political convention from which a large group of delegates, although a minority, has withdrawn. 25 Am J2d Elect § 166.

split decision. A decision to which there are dissents by a minority of justices.

See **equally divided court**.

split-level house. A house with floor on different levels, violating a covenant confining structures to single-story dwellings. Anno: 92 ALR2d 886, § 5[a].

split-off. Same as **spin-off**.

split of stock. See **stock split**.

split sentence. Imposing a fine and imprisonment but suspending the sentence, although collecting the fine. *Ex parte Bosso* (Fla) 41 So 2d 322.

split switch. A term used in railroading referring to an occurrence, often serious in its consequences, wherein the wheels of one truck of a car remain on the main or straight track and the wheels of the other truck take the switch.

This is sometimes caused by a failure to open the switch all the way. *Simone v Rhode Island Co.* 28 RI 186, 66 A 202.

splitting appeal. Taking successive appeals from the same decision. *Jolley v Martin Bros. Box Co.* 90 Ohio App 415, 48 Ohio Ops 99, 107 NE2d 259.

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splitting causes of action. Bringing separate actions upon separate and distinct causes of action against the same person in lieu of joining all of such causes in one action. The practice, not permitted, of splitting one cause of action and maintaining successive suits for different parts. 1 Am J2d Actions § 127.

In applying the rule to the case of a contract twice broken, it has been facetiously observed that it is not permitted to make two suits out of one pair of breeches.

splitting commission. A reprehensible practice on the part of an agent or broker in dividing his commission with the other party to the transaction or the agent or broker for the other party. 3 Am J2d Agency § 254; 12 Am J2d Brok §§ 174 et seq.

splitting fees. See **division of fees**.

split-up. See **spin-off**; **stock split**.

spoiled ballot. A ballot cast at an election containing erasures, delineations, stricken names of candidates, or distinguishing marks. 26 Am J2d Elect §§ 266, 270.

spoils system. A system under which appointment to public office is a reward for political work, with resulting evils of inefficiency, extravagance, interruption of public business by office seekers, corruption of the electoral franchise, and political

assessments. *Civil Service Com. v Auditor General*, 302 Mich 673, 5 NW2d 536. The system replaced by the merit system under civil service. 15 Am J2d Civ S§1.

spoken slander. See **slander.**

spoliation. A material, but unauthorized, alteration of an instrument by a stranger without privity with any of the parties to the instrument, such being without effect upon the validity of the instrument if it can be shown by evidence what the language was as it originally stood. 4 Am J2d Alt Inst § 14. Alterations made in a will by a stranger to the instrument, without the knowledge of the testator. 57 Am J1st Wills § 513. A plundering or devastation, as by an invading force. Pillaging, plundering, and robbing. *Wichita Royalty Co. v City Nat. Bank* (CA5 Tex) 109 F2d 299.

spoliation claims. See **French spoliation claims.**

spoliator. See **in odium spoliatoris; spoliation.**

Spoliatus debet ante omnia restitui. One who has been despoiled ought to have restitution before all things.

Spoliatus episcopus ante omnia debet restitui. A bishop who has been despoiled ought to have restitution before all things.

spondeo. I promise.

Spondet peritiam artis. He promises the skill of his art.

sponging-house. A house where persons arrested for debt were kept for a day in order that their friends might have opportunity to keep them from going to prison by paying their debts.

sponsalia. (Civil law.) Mutual promises to marry.

sponsio. (Latin.) A solemn promise. An engagement.

sponsio judicialis. (Roman law.) A feigned issue; a fictitious issue of fact.

spontaneous exclamation. Words uttered without thought, such as an involuntary utterance indicating present pain. 22 Am J2d Damg § 309. For the purpose of admissibility notwithstanding hearsay character, words which are spontaneous and so related to the transaction or occurrence in question as reasonably to appear to be evoked and prompted by it. 29 Am J2d Ev § 708.

What constitutes a spontaneous utterance such as will bring it within the exception to the hearsay rule depends necessarily upon the facts peculiar to each case. *Beausoliel v United States*, 71 App DC 111, 107 F2d 292.

See **dying declaration.**

sponte oblata. A gift to the king.

Sponte virum fugiens mulier et adultera facta, doti sua careat, nisi sponsi sponte retracta. A woman who runs away from her husband and commits adultery loses her dower, unless she is voluntarily taken back by her husband.

sport. A game. Pastime or diversion.

sporting house. An old term for house of prostitution.

sporting woman. A prostitute. *Johnson v Weedon* (CA9 Wash) 16 F2d 105.

sportula. (Latin.) A gift or present. Remuneration of a worker in excess of the agreed-upon compensation.

spot cash. Cash on delivery of the goods. *McIver v Williamson-Halsell-Frazier Co.* 19 Okla 454, 92 P 170.

spot sales. A brokerage term denoting sales contemplating immediate delivery to the purchaser of the commodities or securities purchased. *United States v New York Coffee & Sugar Exchange*, 263 US 611, 616, 68 L Ed 475, 476, 44 S Ct 225. A term used by grain brokers denoting sales of grain already in the city where the sale is made in railroad cars or elevators for immediate delivery by order on carrier or transfer of warehouse receipt. *Board of Trade v United States*, 246 US 231, 236, 62 L Ed 683, 686, 38 S Ct 242.

spotter. A paid informer. A private detective employed to keep a person under surveillance and report unlawful, immoral, or suspicious conduct. An employee given the additional duty of observing the conduct of fellow workers and reporting violations of working rules to the employer.

spotting cars. Shifting railroad cars to place on siding, spur track, or industrial track where they can be loaded or unloaded conveniently by shipper or consignee.

A voluntary service of uniform practice in railroading, and included in a line-haul rate, which rate is usually made to or from an area within which the carrier holds itself out as agreeing to deliver freight in its freight depot or at team tracks or on sidings or private spur-tracks. This service consists, in delivering a car on a team track, of spotting the car at a point where merchandise of the class contained in the car is usually and most conveniently unloaded. *United States v American Sheet & Tin Plate Co.* 301 US 402, 81 L Ed 1186, 57 S Ct 804.

spotting service. See **spotting cars.**

spot zoning. A provision of a zoning ordinance, creating a small area within the limits of the zone prescribed by the ordinance in which are permitted

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uses inconsistent with those permitted in the larger area. Anno: 128 ALR 740, s. 149 ALR 292. A carving out of one or more properties located in a given use district and reclassifying them in a different use district. *Chayt v Maryland Jockey Club*, 179 Md 390, 18 A2d 856.

An attempt to erect a manufacturing plant in a district zoned for and occupied by first class single residences only might be properly held to be spot zoning and unreasonable and arbitrary, but this can hardly be said of buildings of public utilities devoted to public service and promotive of public welfare. *Higbee v Chicago B. & Q. R. Co.* 235 Wis 91, 292 NW 320, 128 ALR 734.

spousals. Mutual promises to marry.

spouse. A husband or wife.

spouse-breach. Adultery.

spouted. A term familiar in the operation of grain elevators.

Grain is said to be "spouted" when it is caused to go from a grain elevator by force of gravity into box cars standing on railway tracks. *W. W. Cargill Co. v Minnesota ex rel. Railroad & Warehouse Com.* 180 US 452, 461, 21 S Ct 423.

S. P. Q. R. An abbreviation of **senatus, populusque Romanorus**, the senate and the Roman people.

sprain. A violent straining or wrenching of the ligaments or muscles of a joint without dislocation of the bones.

spraying crops. Applying poisonous substances in liquid by spray to growing crops, sometimes by the use of aircraft, to eradicate insect pests. 3 Am J2d Agri § 47.

spring. The season of the year which succeeds winter and in which plants start to grow. Water issuing by natural forces out of the earth at a particular place. *Furner v Seabury*, 135 NY 50, 31 NE 1004. A place where water by natural forces usually issues from the ground. *Magoon v Harris*, 46 Vt 264. A place where the water issues from the earth by the operation of natural forces, although it may have been artificially opened. *Proprietors of Mills v Braintree Water Supply Co.* 149 Mass 478, 21 NE 761.

spring branch. A small creek forming the outlet of a spring. *Wooton v Redd's Executor*, 53 Va (12 Gratt) 196, 198.

spring gun. A weapon installed on premises to fire or discharge automatically upon the intrusion of a trespasser, so as to kill or incapacitate him. *United Zinc & Chemical Co. v Britt*, 258 US 268, 66 L Ed 615, 42 S Ct 299, 36 ALR 28.

springing uses. Estates in futuro, known as executory interests, created by conveyances to uses, recognized in equity and validated by the Statute of Uses, but invalid under the early common law as in contravention of the rigid rules against a limitation of a fee on a fee or the taking effect of a future estate by the cutting short of a prior estate. 28 Am J2d Est § 333.

spring scales. A scales for weighing which measures the weight in ounces or pounds according to the pressure exerted against a spring. 56 Am J1st Wts &M§22.

spring shot. A shot so arranged in blasting that it simply makes a chamber at the bottom of the drilled hole; whereas, a blast proper is a stronger charge, and both tears and throws the earth and rock. *Spokane v Patterson*, 46 Wash 93, 89 P 402.

spring tide. The increased tide at new moon or full moon.

sprinkler discharge or leakage insurance. Insurance against loss or damage by reason of the accidental discharge of leakage of an automatic sprinkler or sprinkler system maintained for fire extinguishment purposes. 29A Am J Rev ed Ins 1370.

sprinkler system. An overhead arrangement of water pipes and sprinklers, constructed and maintained in a building as a protection against fire, water being turned on automatically upon a rise in temperature consequent to the starting of a fire.

sprinkler truck. A motor truck of the public works department of a municipality equipped with sprinkler for the sprinkling of streets. *Healy v Philadelphia*, 321 Pa 488, 184 A 124.

sprinkling street. Artificial sprinkling of streets with water, sometimes in the course of cleaning the streets, but often for the purpose of preventing the blowing of dust accumulating on the way. 25 Am J1st High § 69.

spudded in. A technical term of oil-well drillers. As the phrase is employed and understood among oil operators, it denotes the first abrasion of the soil by the drill, or that of first entrance of the drill into the ground. *Scheel v Harr*, 27 Cal App 2d 345, 80 P2d 1035.

spur. See **spurs**; **spur track**.

spurii. (Roman law.) Illegitimate children born of a prostitute.

The Roman law distinguished between such children and "naturales" who were the children of a concubine and had the right of inheritance from the mother and of support from the father, while spurii had no legal rights either of inheritance or support. Dickinson's Appeal, 42 Conn 491.

spurious. Counterfeit; fake.

spurious bill. A bank bill either signed by persons who are not officers of the bank whence it purports to have issued, or by the names of fictitious persons.

A bill may be both counterfeit and forged, or both counterfeit and spurious, but it cannot be both forged and spurious. Farris v State, 1 Ohio St 185, 187.

spurius. (Roman law.) Singular of spurii.

spurs. Metal spikes attached to the heels of telephone or telegraph linemen, tree surgeons, and other persons whose duties include the climbing of wooden poles or trees, by which the foot carrying the weight of the climber may be anchored to the tree. Small metal prods worn on the heels of horsemen, used in urging the horse to greater speed or in directing the movements of a trained horse.

spur track. A short railroad track leading from a line of railway and connected with it at one end only. 44 Am J1st R R § 231. A railroad track running off a main line, usually to a mine or an industry. A connection with some railroad affording communication with market. Anno: 4 ALR 530.

spy. A person who has committed the offense of being a spy, an offense which is not known to the civil or statute law and which is one of a purely military character, cognizable only in time of war, and before a tribunal having its life, existence and authority, continued and defined by purely military power. Re Robert Martin (NY) 45 Barb 142, 144. One who obtains national defense information and communicates it to a foreign nation in time of war.

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Rosenberg v United States, 346 US 273, 97 L Ed 1607, 73 S Ct 1152. One guilty of espionage.

See **espionage.**

square. An open area in a city, usually at the intersection of several streets, frequented by the public and sometimes kept in condition similar to that of a park. 23 Am J2d Ded § 4. A tract set apart for the free and common use of the public. Re Third Street, 177 Minn 146, 225 NW 86, 74 ALR 561. Ground devoted to public use, either for purposes of free passage, or to be ornamented and improved for a pleasure ground. 39 Am J1st Pks & S § 2. A place set apart as a place for the erection of a court house or other county buildings. Logansport v Dunn, 8 Ind 378, 382. A representation of a plane with four sides of equal length and four right angles. An instrument having two sides joined so as to be usable by carpenter or other artisan in laying out or determining a right angle. A slang term, in common use by teenagers, for a person deemed to be old fashioned in ideas, manners, or dress.

See **party square.**

square inch of water. A stream of water with a cross section area of one square inch measured at right angles with its flow, taking account of the velocity of whatever head is acting upon it.

squatter. A term of American origin applied to settlers on public lands of the United States who have not complied with the regulations of the land office. Glasgow v Hortiz (US) 1 Black 595, 17 L Ed 110, 113.

Squib Case. The celebrated case of *Scott v Shepherd*, 2 W Bl 892, 1 Smith Leading Cas 797, wherein the defendant was held liable to the plaintiff for putting out his eye, as a result of having thrown a lighted squib into a market whence several persons successively picked it up and threw it from them until it exploded and put out the plaintiff's eye. 38 Am J1st Negl § 77.

squire. A magistrate. A title of office and courtesy frequently, but not exclusively, given to a justice of the peace. Anno: 38 ALR2d 186.

SS. Abbreviation of steamship.

ss. Abbreviation of scilicet, used most often in the caption of affidavits, for example:
State of New York County of Monroe }SS:

stab. To wound with a pointed instrument. *State v Patza*, 3 La Ann 512, 514.

stabilization of prices. Various activities of the federal government in the effort to keep prices of certain farm products stable, particularly in making payments to farmers for keeping land out of production of certain crops.

stabilization programs. The various activities and efforts on the part of the federal government in stabilizing the prices of grain and other farm products.

Stabit praesumptio donee probetur in contrarium. A presumption stands until there is proof to the contrary.

"And it seems reasonable that presumption, which is not founded on the basis of certainty, should yield to evidence, which is the test of truth." *Davenport v Mason*, 15 Mass (15 Tyng) 85, 90.

Stabit praesumptio pro veritate. Presumption stands for truth. *Defreese v Lake*, 109 Mich 415, 67 NW 505.

Stabatur praesumptioni donee probetur in contrarium. A presumption stands until the contrary is proved. *Marquet v Aetna Life Ins. Co.* 128 Term 213, 159 SW 733.

stable. A barn. A building, sometimes only a shed, to shelter livestock or provide a place for storing feed for animals and farm machinery. *Culp v Firestone Tire & Rubber Co.* 303 Pa 257, 154 A 479.

See **livery stable**.

stable-stand. Standing ready, as evidence of intent to kill a deer in a forest.

stack. Verb: To arrange things in a pile or heap. To cheat at cards by secretly arranging them in the pack. Noun: A large pile of hay, straw, etc., arranged with some order. A chimney of a factory.

stack sheet. A memorandum showing the quantity of straw in a stack, made out in the ordinary course of business from scale tickets. Anno: 83 ALR 815.

stadium. A place for sports and outdoor performances, constructed usually with elevated tiers of seats encircling the playing or exhibition field. *Alexander v Phillips*, 31 Ariz 503, 254 P 1056, 52 ALR 244.

A stadium is not a school building within the meaning of a statute authorizing the use of money from a special fund for school buildings; neither is it within the meaning of a statute authorizing a bond issue for school buildings. *Board of Education v Williams (Ky)* 256 SW2d 29.

staff judge advocate. The legal adviser and counsel of a commanding general or officer of equal rank.

staff sergeant. A noncommissioned officer of the Army, ranking immediately above a sergeant and immediately below sergeant first class.

stage. See **auto stage**.

stagecoach. A vehicle for public transportation, pulled by horses, common in the earlier days of the country.

stage line. A bus line of a common carrier by bus or motor coach. *Bruce Transfer Co. v Johnston*, 227 Iowa 50, 287 NW 278.

staging. See **scaffold**.

stagnum. A pond.

"A pool doth consist of water and land; and therefore by the name of stagnum or a pool the water and land shall pass also." *Johnson v Rayner*, 72 Mass (6 Gray) 107, 110.

stains. See **blood stains**.

stairway. A flight of stairs a series of steps ascending or descending to a different level. *Montgomery Ward & Co. v Snuggins* (CA8 Minn) 103 F2d 458.

stake. The amount put up by way of wager or bet. Money or other property which, under the terms of a bet or wager is to become the property of the winner of the bet or wager upon the happening of the event. 24 Am J1st Gaming § 14.

stakeholder. One with whom money or property is deposited to abide the result of a gambling contract or transaction. *Martin v Francis*, 173 Ky 529, 191 SW 259.

He is a mere depositary of both parties for the money deposited by them respectively, with a

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naked authority to deliver it over on the proposed contingency. If the authority is actually revoked before the money is paid over, it remains a naked deposit to the use of the depositor. The stakeholder is in no proper sense a party to the illegal contract, nor is he in *pari delicto* with the parties. *Ball v Gilbert*, 53 Mass (12 Met) 397, 402.

stale check. A check held for an unreasonable time before indorsement or presentation for payment. *Home Sav. Bank v Bentley*, 5 Wis 2d 19, 92 NW2d 377, 67 ALR2d 1450.

stale claim. A claim subject to the defense of laches or limitation of action.

stale equity. Same as **stale claim**.

stall. A small inclosed place in a building. An inclosed place in a public market for use by a farmer or dealer in selling his products. An inclosed place in a barn, where one horse may be kept conveniently.

stallage. The liberty of maintaining a market stall.

stalled vehicle. A vehicle disabled so as not to be movable under its own power, particularly a vehicle in such condition on the highway.

stallion. A male horse, uncastrated, and kept for breeding purposes.

See **killyth-stallion; standing a stallion.**

stamp. See **postage stamp; revenue stamps; rubber stamp; stamp taxes; trading stamps.**

stamp acts. Statutes which impose stamp taxes. English statutes of such nature which constituted one of the primary causes of the American revolution.

stampeding. Frightening livestock into running. 8 Am J2d Avi § 100. Delegates at a political convention suddenly giving overwhelming support to a candidate for nomination.

stamping. Affixing stamps, such as postage stamps, or revenue stamps, as required. Making a mark or impression with a stamp.

stamp tax. In the narrow but generally accepted sense of the term, a tax charged on written instruments as such, collected by means of stamps impressed or affixed to the instrument charged, the latter being important in the enforcement of legal rights. 23 Am J2d Deeds § 21; 49 Am J1st Stamp T § 2. In the broad sense, any tax collected by requiring the affixing of stamps to an article, such stamps to be obtained from the tax or revenue office.

See **revenue stamps.**

stand. A structure, usually in a public place, for the accommodation of particular persons, such as the members of a band or other entertainers.

See **grandstand; leave standing.**

standard. A flag or emblem. A determined means of comparison or evaluation, e.g., a building standard.

A specimen of undisputed handwriting of a person offered for comparison with handwriting alleged to be his but denied by him. 36 Am J2d Forg § 49.

standard deduction. An optional deduction allowed the taxpayer in computing net income for federal income tax. Internal Revenue Code § 141. A similar deduction in computing net income for state income tax.

standard fire policy. See **standard policy.**

standard form. See **standard policy.**

standard gauge. A railroad the tracks of which are laid with a distance of four feet, eight and one-half inches between the rails.

standardized high school. A high school which complies with established standards and conditions for receiving state aid. State ex rel. Mannes v Alquist, 59 ND 762, 231 NW 952, 72 ALR 494.

standard liability policy. An automobile liability policy in the form required by statute or regulation having the force of law.

standard man. See **the ordinary prudent man.**

standard mortality tables. Life expectancy tables of standard authority, such as the American table and other tables appearing in the statutes, although the courts are inclined to favor the latest tables, because the facts upon which they are calculated are much more complete.

At various times and to some extent at the present time, the Wigglesworth, a table prepared in the United States, and the Northampton and Carlisle tables, which were prepared in England, have been accepted by courts as standard. 29 Am J2d Ev § 895.

standard mortgagee clause. A loss payable clause for the protection of the interest of a mortgagee of the insured property, in a form prescribed by statute. 29 Am J Rev ed Ins. § 731.

See **union mortgage clause.**

standard of care. The standard according to which negligence in a particular situation is determined. The care which an ordinary prudent person would exercise under like circumstances. The supposititious course of an ordinary prudent and careful person under the same circumstances. 38 Am J1st Negl § 30.

See **the ordinary prudent man.**

standard of comparison. See **standard.**

standard of living. The manner of living in reference to amenities, comforts, and luxuries, as well as the necessities of life.

Standard Oil Trust. See **trust.**

standard policy. An insurance policy in a form prescribed by or complying with statute. 29 Am J Rev ed Ins § 257.

Standards Bureau. The national bureau or office of Standard Weights and Measures, established for the facilitation of the administration of federal laws and regulations pertaining to the adoption and enforcement of standard weights and measures. 15 USC § 271.

standard sizes and weights. Sizes or weights for specified products, or the size or capacity of containers of such products, as prescribed by statute or ordinance. 56 Am J1st Wts & L § 35.

standard sun time. See **standard time.**

standard time. Time measured by a standard adapted to mean solar time to convenient use in commerce, business and the ordinary affairs of life, the country being divided into time zones, each zone having as an accepted time, the actual sun time at the middle degree of longitude of the zone. 52 Am J1st Time § 3.

Where statute has designated the time of day at which an act shall be done, such as the time for holding court, the decisions are not uniform as to whether the statute is to be construed as meaning

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sun time or as referring to standard time. 52 Am J1st Time § 6.

standard weights. See **standard sizes and weights.**

stand by. See **standing by.**

standing. The position of a person in reference to his capacity to act in a particular instance, for example, the standing of a person to maintain a derivative action. 19 Am J2d Corp § 559.

See **credit rating; social position; standard of living; stopping or standing.**

standing army. A military force of persons engaged full time in the service, maintained in times of peace as well as of war.

See **regular army.**

standing a stallion. Keeping a stallion for service in breeding mares, fees being charged by way of compensation for such service.

standing by. Awaiting opportunity for the necessity of action, as a master of a vessel remaining in position and readiness to respond to duty. 48 Am J1st Ship § 118. Ready to respond with assistance, comfort, or support for another. For the purposes of equitable estoppel, silence or inaction where one ought to speak or act. 28 Am J2d Estop § 53.

As applied to the equitable principle of estoppel, a person "stands by," not merely by being actually present, but by having knowledge under such circumstances as render it his duty to communicate such knowledge. *Gaddes v Pawtucket Institution for Sav.* 33 RI 177, 192, 80 A 415.

standing in loco parentis. See **loco parentis.**

standing jack. A male jackass kept for the purpose of breeding, particularly for breeding mares of the horse family, such breeding being productive of a mule, a hybrid but very good work animal.

standing juror aside. A provisional exercise of a peremptory challenge. 31 Am J Rev ed Jury § 230.

standing master. A master in chancery appointed to serve as a regular officer of the court, rendering services as a master in any case in which a master is needed. 27 Am J2d Equity § 225.

standing mute. An accused in a criminal case refusing to plead. 21 Am J2d Crim L § 462. The equivalent of a plea of not guilty. Anno: 58 ALR 79, s. 82 ALR 369 116 ALR 231.

standing of member. The status of a member of a fraternal order or society in reference to the payment of dues, attendance at meetings, and engaging in the work and activities of the order or body.

See **good standing.**

standing order. An order of court applicable generally to actions, its effect not being confined to a particular case, for example, an order made at the close of a term of court, that all actions not disposed of are continued. 37 Am J1st Motions § 25.

See **General Orders in Bankruptcy.**

standing seised. See **seised; seised to uses.**

standing timber. Live trees in their natural state. Anno: 72 ALR2d 740. A part and parcel of the land in which rooted. 42 Am J1st Prop § 19.

standing to sue. Broadly, capacity to maintain an action as plaintiff. 39 Am J1st Parties § 12. In the usual legal sense, the capacity to sue where more than one's own interest is involved, as in a taxpayer's action or in a derivative action. 19 Am J2d Corp § 559.

standing trees. See **standing timber.**

standing trustee. Same as **official trustee.**

standing vehicle. See **leave standing; stalled vehicle; stopping or standing.**

standpipe. A cylindrical tank for storing water, usually of sufficient height to create water pressure.

stand seised to the use of. Technical words proper to create a covenant to stand seised. 28 Am J2d Est § 348.
See **seised to uses.**

stannary courts. Courts established for the tanners of Devonshire and Cornwall.

staple. See estate by statute staple; law of the staple; mayor of the staple.

staple crops. Such productions of the soil as have an established and defined character in the commerce of the country.
Among them may be included wheat, rye, oats, buckwheat, beans, corn, barley, potatoes, etc. Keeran v Griffith, 34 Cal 580.

stapula. Staple.

starboard. That side of a ship on one's right hand when facing the bow.

starboard watch. See **watch.**

star-chamber. See **court of starchamber.**

stare ad rectum. To stand trial; to abide by the judgment of the court.

stare decisis. The doctrine or principle that decisions should stand as precedents for guidance in cases arising in the future. A strong judicial policy that the determination of a point of law by a court will generally be followed by a court of the same or a lower rank in a subsequent case which presents the same legal problem, although different parties are involved in the subsequent case. 20 Am J2d Cts § 183.

The great principle, stare decisis, so fundamental in our law, and so congenial to liberty, is peculiarly important in popular governments, where the influence of passions is strong, the struggles for power are violent, the fluctuations of party are frequent, and the desire of suppressing opposition, or of gratifying revenge under the forms of law and by the agency of the courts, is constant and active. *Ex parte Bollman* (US) 4 Cranch 75, 89, 2 L Ed 554, 559.

An opinion rendered by a court of a foreign country, especially a British court, although having no effect by stare decisis in this country, may well be persuasive on an American court, particularly where the foreign court deals in its opinion with a question of law common to all civilized nations. 20 Am J2d Cts § 200.

The decision of a court of one state does not have effect as stare decisis in the court of another state, although it may be considered and even followed by the court of the sister state because its reasoning is persuasive. 20 Am J2d Cts § 203.

While even a single adjudication of the court, upon a question properly before it, is not to be questioned or disregarded except for the most cogent reasons, and then only in a case where it is plain that the judgment was the result of a mistaken view of the condition of the law applicable to the question, the doctrine of stare decisis is not without exceptions. It does not apply where it can be shown that the law has been misunderstood or misapplied,

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or where the former determination is evidently contrary to reason. *Rumsey v New York & New England Railway Co.* 133 NY 79, 30 NE 654.

stare decisis et non quieta movere. To stand by the decisions and not to disturb settled points.

stare in judicio. To stand in judgment; to submit to the jurisdiction of the court.

star pages. Pages of a second or later edition of a book, particularly a law book, marked with a star at a certain line or word and indicating at such point a page number of the earlier edition, thereby correlating the pagination of the later edition with the earlier.

starr. A term which was applied by the Jews in England to all contracts, deeds, or other obligations.

state. 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. *McLaughlin v Poucher*, 127 Conn 441, 17 A2d 767. People, territory, and government considered in combination. *Texas v White* (US) 7 Wall 700, 19 L Ed 227, overruled on other grounds 113 US 476, 28 L Ed 1044, 5 S Ct 588. A complete body of free persons united together for their common benefit, to enjoy peaceably what is their own, and to do justice to others. *Chisholm v Georgia* (US) 2 Dall 419, 1 L Ed 440.

Under the United States Constitution:-a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed. *Coyle v Smith*, 221 US 559, 55 L Ed 853, 31 S Ct 688. For the purposes of the Fair Labor Standards Act, any state of the United States, the District of Columbia, or any territory or possession of the United States, 29 USC § 203(c).

See **sovereign state**.

state agency. A department, commission, board, committee, or body of any form operating as an instrumentality of the state government.

state aid. Financial aid given by the state to city, town, or county, one of the older examples of which is the giving of funds for construction of highways. 25 Am J1st High § 610. The distribution of state funds to local bodies for use in the construction of school buildings or the maintenance of public schools on a basis provided by statute, sometimes in proportion to the number of persons of school age or the number in attendance at the public schools. Aid by public funds of the state granted to private and sectarian colleges and universities. 15 Am J2d Colleges §§ 2, 31. Support or assistance furnished by the state to institutions, organizations, or individuals for a public purpose, and, as applied particularly to individuals, in a use of state funds to support its needy citizens. *Beach v Bradstreet*, 85 Conn 344, 353, 82 A 1030.

See **welfare**.

state aid highway. A highway constructed and maintained by a county or other political subdivision with financial aid furnished by the state. A road built at the joint expense of the state and the county. See *De Witt County v Greene*, 320 111491, 493, 151 NE 372.

state antitrust laws. State statutes of the same general character as the Sherman Act, but differing in scope and detail, and state constitutional inhibitions against trusts and monopolies, with directions to pass appropriate suppressive legislation, and forbidding the legislative grant to any corporation of the power to enter into such combinations. 36 Am J1st Monop etc § 119.

state auditor. A state officer whose office is a branch of the executive department of the state and whose duties relate almost exclusively to the fiscal affairs of the state, of which he has a general superintendence. 49 Am J1st States § 55.

state bar. All the persons admitted to practice law in the state. In a technical sense, an organization, membership in which is a prerequisite to the privilege of practicing law in the state. Anno: 151 ALR 617.

See **integrated bar**.

state bonds. Obligations of the state, issued according to the method provided by law for using the state's credit to obtain money for accomplishing a governmental purpose, the instruments issued being instrumentalities of government. 43 Am J1st Pub Sec § 16.

state census. A census taken under state law, sometimes covering all the population, at other times a particular class of the population, such as legal voters. 14 Am J2d Census § 5.

state classification rule. The principle that the character of a corporation is to be determined for the purposes of adjudication in bankruptcy by the classification in which the corporation was placed by the statutes of the state in which it was organized. *Re Union Guarantee & Mortgage Co.* (CA2 NY) 75 F2d 984, cert den 296 US 594, 80 L Ed 421, 56 S Ct 142.

state college. A college maintained by the state, sometimes with, sometimes without, the imposition of charges for tuition against residents of the state.

state commission. An agency of the state government.

See **particular commission, such as highway commission; public service commission, etc.**

state constitution. A compact made by and between the citizens of a state to govern themselves in a certain manner, constituting the paramount and supreme law of the state so far as consistent with the United States Constitution. 16 Am J2d Const L § 2. A fundamental act of legislation by the people of the state acting in their sovereign capacity. *Sage v New York*, 154 NY 61, 47 NE 1096. An act of extraordinary legislation by which the people establish the structure and mechanism of their government. *Ellingham v Dye*, 178 Ind 336, 99 NE 1, app dismd 231 US 250, 58 L Ed 206, 34 S Ct 92.

state courts. See **courts.**

stated account. See **account stated.**

stated case. See **agreed case.**

State Department. One of the executive departments of the United States government, headed by the Secretary of State, principally charged with the management of foreign affairs and foreign trade relations. 54 Am J1st US § 48.

state department. See **State Department; state agency.**

stated meeting. Same as **regular meeting.**

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stated term. A regular term of court.

state election. An election wherein state officers are elected. 25 Am J2d Elect § 10.

state experience factor. See **experience.**

state fund. See **state funds; state insurance fund.**

state funds. Public funds belonging to the state. 42 Am J1st Pub F § 2. Moneys of which the state has taken possession pursuant to law, even though such moneys may be held by the state for special purposes. *Lawrence v American Surety Co.* 263 Mich 586, 249 NW 3, 88 ALR 535.

See **public funds**.

state governor. See **governor**.

state hospital. A hospital maintained by the state, particularly a hospital for the care of the insane.

state institution. See **institution**.

state insurance fund. A fund managed and administered by the state for the payment of workmen's compensation awards and the defrayment of the expense of administering the workmen's compensation laws, employers contributing to the fund as assessed, the arrangement taking the place of conventional insurance. 58 Am J1st Workm Comp §§ 552-554. A fund for the insurance of crops. 21 Am J2d Crops § 6.

state jail. A state reformatory, penitentiary, or prison. *Ex parte Mills*, 135 US 263, 271, 34 L Ed 107, 110, 10 S Ct 762.

state lands. See **public lands**.

statement. An allegation, recitation, or presentation, verbally or on paper. *Montague v Thomason*, 91 Tenn 168, 173.

statement of affairs. A filing required of a bankrupt, the purpose of which is to render information concerning the bankrupt's financial affairs available to the creditors and trustee in bankruptcy. 9 Am J2d Bankr § 380.

statement of case. An informal statement required of a plaintiff in a small claim's court in lieu of a formal complaint, bill, or declaration. A statement required in some states on motion for a new trial.

A party moving for a new trial on the ground that the findings of fact are against the evidence should specify in the statement each particular finding which in his opinion is against the evidence. Where the motion is based on the ground that the evidence is insufficient to support the verdict, a statement which contains substantially all the evidence given at the trial need not specify the particulars in which it is insufficient. 39 Am J1st New Tr § 199.

statement of claim. See **claim; statement of demand**.

statement of confession. See **confession; confession of judgment; power of attorney to confess judgment**.

statement of cost of property. A filing which a bankruptcy court may require of a bankrupt. 9 Am J2d Bankr § 381.

statement of defense. The pleading of an affirmative defense in an answer.

statement of demand. A statement in writing setting forth the demand, showing its nature and character and the amount due and owing thereon. *Brennan v Swasey*, 16 Cal 141.

statement of facts. In some jurisdictions, the equivalent of agreed case. 3 Am J2d Agr C § 1. The primary essential of a pleading, such statement, however, to be confined to the ultimate facts.

state militia. An organization comprised of men who come from the body of the citizens, and when not engaged at stated periods in drilling, and other exercises, they return to their usual vocations, as is usual with militia, and are subject to call when the public exigencies demand it. 36 Am J1st Mil § 42.

state moneys. See **state funds.**

state officer. In a popular sense,-an officer whose jurisdiction is coextensive with the state. In a more enlarged legal sense,-one who receives his authority under the laws of the state, and performs some of the governmental functions of the state. 49 Am J1st States § 52.

state of mind. The mental operation of a person; knowledge, belief, or intent. 29 Am J2d Ev § 355.

state of war. See **war.**

state penitentiary. See **state prison.**

state police power. See **police power.**

state prison. The ordinary prison for the confinement of persons convicted and under sentence of confinement for felonies or misdemeanors where the sentence is for an extended duration, at least for a year, known in some jurisdictions as a state penitentiary. United States v Smith (CC Va) 40 F 755, 759.

state reports. See **court reports.**

stateroom. A cabin or room for the accommodation of a passenger or ship's officer on a vessel. 48 Am J1st Ship § 354. A bedroom on a sleeping car.

state's attorney. See **attorney general; county attorney; district attorney; prosecuting attorney.**

state secret. A matter of government or of a department of the government protected against disclosure by a witness in ordinary judicial proceedings. 58 Am J1st Witn § 535.

state's evidence. Testimony in a criminal prosecution which implicates the witness as a participant in the offense but given voluntarily in the hope of avoiding prosecution of self or of receiving a light sentence. 58 Am J1st Witn § 525.

state's immunity from suit. See **immunity from suit.**

state superintendent of public instruction. An administrative officer having duties which vary as between jurisdictions, but ordinarily serving to coordinate the activities in the educational process of the public schools.

state tax. In one sense, any tax levied under a general state law; in another sense, any tax levied for general state purposes. Youngblood v Sexton, 32 Mich 406.

state treasurer. See **treasurer.**

state university. A university maintained by the state, sometimes with, sometimes without, the imposition of tuition charges against residents of the state.

statim. Immediately.

stating part. The narrative part of a bill in equity, otherwise known as the premises, embracing the real substance of the suit.

The state part must set out all the essential facts on which the plaintiff relies as a ground of relief. 27 Am J2d Equity § 181.

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statio iterve navigio. A navigable place or route. See Note: Ann Cas 1914B 1068.

station. See **bus terminal; military station; railroad station.**

station agent. An employee of a railroad company in charge of a specific station on the line of the company. A resident agent of a foreign railroad company. 36 Am J2d For Corp § 563.

stationer's form. A form often foisted upon unsophisticated persons upon the representation that the user need only fill in the blanks in order to produce a legal instrument, such as a will. 57 Am J1st Wills § 634.

station grounds. Grounds including such territory surrounding a railroad depot or station as may be required to satisfy the reasonable convenience and necessity of the public while engaged in transacting business with the railroad company, and which is actually used for such purpose. 44 Am J1st RR § 169.

station in life. See **social position; standard of living.**

station in life rule. The rule that the amount and character of the benefits to which one for whose support provision is made in a testamentary instrument is entitled must be determined according to his station in life. Anno: 101 ALR 1499 et seq. A similar rule which prevails in determining the amount of alimony to which a divorced wife is entitled. 24 Am J2d Div & S § 635.

station license. A license for the operation of a radio or television station. 44 Am J1st Rad § 6.

station platform. The platform maintained by a carrier for use by its patrons in boarding and leaving its cars or vehicles. *Garcia v New York City Transit Authority*, 19 App Div 2d 530, 240 NYS2d 275.

statist. A statistician. An obsolete term for statesman.

statistics. See **vital statistics.**

Stat nominis umbra. But the shadow of the name remains. That is, the thing has become a mere name in the place of that which formerly existed. *Briscoe v Bank of Kentucky (US)* 11 Pet 257, 349, 9 L Ed 709, 745.

Stat pro racione voluntas. The purpose stands for the consideration. *Aller v Aller*, 40 NJL 446, 451.

Stat pro racione voluntas populi. The will of the people takes the place of reason.

"With the wisdom or expediency of a constitutional provision, the judges have no concern." *People v Draper (NY)* 25 Barb 344, 376.

statu liber. A free person, as distinguished from a slave.

The manumission or freeing of a slave makes him a "statu liber." *Valsain v Cloutier*, 3 La 170, 176.

statu quo. See **in statu quo; restoration of status quo.**

status. Position or rank. A legal personal relationship or condition, not temporary in its nature nor terminable at the mere will of the parties, with which third persons and the state are concerned. *Re Davidson*, 223 Minn 268, 26 NW2d 223, 170 ALR 215. An existing state of affairs.

"The very meaning of the word 'status,' both derivative and as defined in legal proceedings, forbids that it should be applied to a mere relation (such as that of marriage). 'Status' implies relations, but it is not a mere relation." *De La Montanya v De La Montanya*, 112 Cal 101, 44 P 345.

See **crime of status.**

status of the ship. A status acquired by being a member of a ship's company or doing a seaman's work and incurring a seaman's hazards. *Kermarec v Compagnie Generale Transatlantique*, 358 US 625, 3 L Ed 2d 550, 79 S Ct 406.

status quo. The settled condition or state. The state of affairs before change or alteration.

See **in statu quo; restoration of status quo.**

Status reipublicae maxime iudicatis rebus continetur. The stability of the state is best maintained by matters adjudicated.

The United States Supreme Court "has contributed its share to that stability which results from a respect for things adjudicated." *Beauregard v New Orleans (US)* 18 How 497, 15 L Ed 469, 472.

Statuta pro publico commodo late interpretantur. Statutes enacted for the public welfare are to be liberally construed.

Statuta suo clauduntur territorio, nec ultra territorium disponunt. Statutes are confined to their own territory; they do not govern outside their territorial limits. *New York Foundling Hospital v Gatti*, 9 Ariz 105, 79 P 231.

statute. An act of the legislature as an organized body. *Washington v Dowling*, 92 Fla 601, 109 So 588. The written will of the legislative department, expressed according to the form necessary to constitute it a law of the United States or of the state, and rendered authentic by certain prescribed forms and solemnities. In a broader sense, inclusive of an act of the legislature, an administrative regulation, or any enactment, from whatever source originating, to which the state gives the force of law. 50 Am J1st Stat § 2.

statute against common right. A statute in derogation of a right supported by the common law. *Coral Gables v Christopher*, 108 Vt 414, 189 A 147, 109 ALR 474.

Statute de Donis. An early English statute (13 Edw 1) passed primarily to prevent certain evils of alienation prevalent under the pre-existing estate of fee simple conditional, having the effect of giving existence to estates in fee tail. 28 Am J2d Est § 45.

For text of the statute, see Am J2d Desk Book, Document 104.

Statute de Donis Conditionalibus. Same as **Statute de Donis.**

Statute de Mercatoribus. See **De Mercatoribus.**

statute in pari materia. See **in pari materia.**

statute merchant. See **De Mercatoribus; estate by statute merchant.**

statute mile. The mile of 5,280 feet, as legalized in England and adopted in the United States. *Steamboat Co. v Fessenden*, 79 Me 140.

Statute of Acton Burnel. See **Acton Burnel**.

statute of amendment. A statute which permits the correction of certain omissions and imperfections in pleadings. *State ex rel. Smith v Trimble*, 315 Mo 166, 175, 285 SW 729.

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Statute of Anne. An English statute (3 & 4 Anne ch 9) by which promissory notes were put upon the same footing as inland bills of exchange in accordance with the custom of merchants or general business usage. 11 Am J2d B & N § 38.

Statute of Charitable Uses. An act of parliament passed in 1601 to protect the property of charitable institutions and placing them under the general supervision of the lord chancellor. 43 Elizabeth, ch 4.

For text of statute, see Am J2d Desk Book, Document 113.

Statute of Circumspecte Agatis. See **Circumspecte Agatis**.

statute of distribution. A statute which provides a system of succession to the personal property left by a decedent or, as is frequently the case, for the descent and distribution of both real estate and personal property. 23 Am J2d Desc & D § 9.

Statute of Enrolments. An English statute (1536;27 Hen. v III ch 16) which required all deeds of bargain and sale to be enrolled in order to be valid. 28 Am J2d Est § 346.

For text of the statute, see Am J2d Desk Book, Document 110.

statute of entail. Same as **Statute de Donis**.

Statute of Fines. An English statute enacted in 1540, providing for the barring of an entail by levying a fine.

statute of frauds. A statute which requires certain classes of contracts to be in writing. Sometimes called a statute for the prevention of frauds and perjuries. 49 Am J1st Stat of F § 1. A term sometimes applied in England to statutes affording relief against transfers of property designed to hinder and defraud creditors. 37 Am J2d Frd Conv § 2.

Statute of Gloucester. An English statute (6 Edw I ch 5, 1278) providing a penalty for waste.

For text of statute, see Am J2d Desk Book, Document 102.

The statute 6 Edward I, ch. 1, which gave costs in all cases when the plaintiff recovered damages. The statute originated costs de incremento, that is, costs awarded by the court and added to the damages assessed by the jury. *Day v Woodworth* (US) 13 How 362, 14 L Ed 181.

Statute of Hue and Cry. An English statute enacted in 1285 which provided for immediate hue and cry upon the commission of a robbery or other felony and that the people of the hundred where a robbery was committed should be held liable for it unless they captured the robber. 13 Edw I, chs 1, 2; 4 BI Comm 293.

statute of jeofails. See **jeofails**.

statute of limitations. See **limitation of actions**.

Statute of Malefactors in Parcis. An English statute for the protection of game preserves against poachers.

Statute of Marlborough. The statute (1267) 52 Henry III, ch 23, confirming Magna Charta and Charta de Foresta and regulating certain tenures and matters of procedure. Sometimes called Statute of Marlbridge after the place where parliament was sitting at the time of the enactment.

Statute of Marlbridge. Same as **Statute of Marlborough.**

Statute of Merton. The English statute, so called, of 20 Henry III, ch 9 which is, in fact, not a statute, but a mere entry on the minutes of Parliament of a refusal by the English lords to assimilate the law of England to that of other civilized countries by affirmatively declaring that the marriage of the parents subsequent to the birth rendered the child legitimate. See 10 Am J2d Bast § 146.

statute of nonclaim. See **nonclaim statute.**

statute of the state. Any enactment, from whatever source originating, to which the state gives the force of law. *Atlantic Coast Line R. Co. v Goldsboro*, 232 US 548, 58 L Ed 721, 34 S Ct 364.

Statute of Uses. An English statute of 1536 (27 Henry VIII ch 10), generally recognized as a part of the common law of states of the United States, which gave a legal status to so-called "uses" theretofore recognized only in equity, providing that the legal title should follow the beneficial interest and vest in the "cestuis que use" after such quality, manner, form and condition as they had before in or to the use, confidence or trust that was in them. 28 Am J2d Est § 344. A statute, the most significant effect of which was to validate executory interests theretofore recognized only in equity. 28 Am J2d Est § 333.

For text of statute, see Am J2d Desk Book, Document 109.

Statute of Westminster. An act of the English Parliament in 1285 (13 Edw I, ch 34), providing that "if a wife willingly leave her husband and go away and continue with her advouterer" she shall be barred of dower, unless her husband later forgives her and takes her back.

Statute of Westminster I. The name given to a statute enacted in 1275 in the reign of Edward the First, providing for many reforms. See 4 Bl Comm 425.

Statute of Westminster II. Same as **Statute de Donis.**

Statute of Westminster III. Same as **Statute Quia Emptores.**

Statute of Wills. An English statute (1540; 32 Henry VIII ch 1) often said to have been the foundation of the modern English law of wills, being of most significance in its giving validity to devises of real estate not theretofore recognized at common law. 57 Am J1st Wills § 3. An English statute (34 & 35 Henry VIII ch 5; 1542, 1543) supplementing the earlier statute.

For text of the statutes, see Am J2d Desk Book, Documents 111, 112.

Statute of Winchester. Same as **Statute of Hue and Cry.**

Statute Quia Emptores. An act of Parliament in 1290 (18 Edw I ch 1), prohibiting sub-infeudation as by providing that upon all sales or feoffments of lands, the feoffee shall hold the same, not of the immediate feoffor, but of the chief lord of the fee, of whom such feoffor himself held it, the object of the Act being to remove feudal restraint upon the alienation of land. 28 Am J2d Est § 3. A statute which had the effect of abolishing rent service. *Van Rensselaer v Hays*, 19 NY 68.

For text of statute, see Am J2d Desk Book, Document 105.

Statutes at Large. See **United States Statutes at Large.**

statutes of laborers. English statutes concerning laborers, servants, and apprentices.

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statutes of mortmain. See **mortmain statutes.**

statutes of repose. Statutes of limitation. *Atchison, Topeka & Santa Fe Railroad Co. v Burlingame Township*, 36 Kan 628, 14 P 271.

See **limitation of actions.**

statutes personal. Terminology of the continental or civil law.

See **statutes real.**

statutes real. Terminology of the continental or civil law.

The Spanish and French laws touching community property, and those of California and Texas and other states derived from them, are held to be, in the vocabulary of the civilians, statutes real and not statutes personal; that is to say, they apply to things within a country's jurisdiction rather than to persons wherever they may be or go. *Commissioner v Skaggs* (CA 5 Tex) 122 F2d 721.

statute staple. See **estate by statute staple.**

statute to prevent frauds and perjuries. See **statute of frauds.**

statuto. See **ex statuto.**

statuto mercatori. See **de statuto mercatori.**

statutory. Created or existing under or by virtue of a statute.

statutory acre. An acre the area of which was fixed by statute as distinguished from the customary acre.

See **customary acre.**

statutory action. A remedy provided by statute which does not exist at common law or a remedy for the enforcement of a particular right more effective than that existing at common law. A private right of action predicated upon the violation of a statute. 1 Am J2d Actions § 73.

statutory bond. A bond required by statute. A bond which either literally or substantially meets the requirements of statute. *Southern Surety Co. v. United States Cast Iron Pipe & Foundry Co.* (CCA) 13 F2d 833.

A distinction is made between a common-law bond and a statutory bond in that the latter is one which conforms to a statute, while the former does not, although it may have been so intended. *Mt. Vernon v Brett*, 193 NY 276, 86 NE 6, 10.

statutory copyright. A copyright to which an author is entitled by statute, as distinguished from the so-called "copyright at common law" or right of literary property. 18 Am J2d Copyr § 1.

statutory dedication. A dedication of land to public use made according to statute and operating by way of grant. 23 Am J2d Ded § 3.

statutory discovery. The remedy of discovery as provided by statute, the authorities being in conflict on the question whether the statutory remedy supersedes the equitable remedy of discovery. 23 Am J2d Dep § 142.

statutory emancipation. A proceeding authorized by statute in some states whereby courts are empowered to remove the disabilities of an infant on a proper application and proof of his capacity.

This is not a true emancipation, since its result is to remove the general disabilities of infancy, rather than the father's right to the child's services. 39 Am J1st P & C § 64.

statutory exposition. The inclusion in a statute of the construction made by the courts of an earlier statute on the same subject.

statutory felony. See **felony**.

statutory foreclosure. The foreclosure of alien or mortgage without suit, but by notice and sale pursuant to statute.

statutory form. A form of pleading, process, indictment, or instrument which meets statutory requirements. A form set forth in a statute, e.g., a form of deed.

See **short form**.

statutory guardian. A guardian appointed by will pursuant to statute. 25 Am J1st G & W § 12. In a broader sense, any guardian appointed pursuant to and in accord with the statutes.

statutory interest. See **lawful interest**.

statutory interpleader. The remedy of interpleader as provided by statute, such being analogous to the remedy in equity by bill of interpleader, and concurrent with and cumulative of the equitable remedy, the latter remaining available in a proper case-notwithstanding the statutory remedy. 30 Am J Rev ed Interpl § 18.

statutory investment. See **legal investment**.

statutory jurisdiction. In effect, jurisdiction as conferred by legislation enacted pursuant to the constitution of the sovereignty on behalf of which the court functions. 20 Am J2d Courts § 91. Jurisdiction in equity as granted by statute apart from the inherent jurisdiction of a court of chancery. *Kelly v Conner*, 122 Tenn 339, 123 SW 622.

statutory liability. See **liability created by statute**.

statutory lien. A lien resting on statute. 9 Am J2d Bankr § 960. A lien existing under the common law and declared by statute, sometimes with modification of its incidents, or a lien created by statute for a situation where no right of lien existed at common law. 33 Am J1st Liens § 24.

statutory pardon. A pardon granted by an act of the legislature. 39 Am J1st Pard § 21.

statutory penalty. See **penalty**.

statutory rape. Carnal knowledge of a female under a stated age, with or without her consent. 44 Am J1st Rape § 17.

statutory receiver. A receiver appointed by a court acting under statutory authority. 45 Am J1st Rec § 3.

statutory reprieve. A reprieve granted by an act of the legislature. 39 Am J1st Pard § 21.

statuto stapuli. See **de statuto stapuli.**

Statutum affirmativum non derogat communi legi. An affirmative statute does not derogate from the common law.

Statutum de Militibus. The statute concerning soldiers. See 1 BI Comm 347.

Statutum generaliter est intelligendum quando verba statuti sunt specialia, ratio autem generalis. When the words of a statute are special, but the reason is general, the statute is to be understood generally.

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Statutum Mercatoribus. See **De Mercatoribus.**

Statutum speciale statuto speciali non derogat. A special statute does not derogate from a special statute.

stay. Verb: To put a stop to further proceedings, usually temporarily. Noun: A postponement of an action or proceeding.
See **moratorium; supersedeas.**

stay of action. The postponement of proceedings in a case until the happening of a contingency, regardless of the time or the term of court at which such contingency happens. *Simmons v Superior Court of Los Angeles County*, 96 Cal App 2d 119, 214 P2d 844, 19 ALR2d 288. Restraint by injunction of the institution or prosecution of an action. 28 Am J Rev ed Inj §§ 200 et seq.

stay of arbitration. An injunction against arbitration proceedings for fraud or duress practiced against one of the parties, or on the ground of the absence of a bona fide dispute. 5 Am J2d Arb & A § 83.

stay of execution. An order issued by the court, upon cause shown, against the issuance or the enforcement of an execution.
Stays of execution are of three classes: (1) those which are ordered by the court in which judgment is rendered, but not as the result of any appellate proceeding, and which proceed upon the ground that for some cause, the execution of the judgment ought to be postponed to some subsequent date, or, perhaps, ought not to take place at all; (2) those which result from statutes or rules of court granting the defendant a further time in which to satisfy the judgment upon his giving security therefor; and (3) those which are a consequence of, or attend, appellate proceedings. 30 Am J2d Exec § 692.

See **supersedeas.**

stay on appeal. See **stay of execution; supersedeas.**

stay statute. See **moratorium.**

steady course. The course of a vessel unchanging as to the direction in which headed and such that her future position may be calculated from present position and speed. *Commonwealth v Dominion Line* (CA2 NY) 20 F2d 729.

steal. Verb: To commit larceny. *Daugherty v Thomas*, 174 Mich 371, 140 NW 615. To take without right or leave, with intent to keep wrongfully, the goods of another. *Grooms v State*, 85 Fla 413, 96 So 296. Noun: A taking by larceny or theft. In the broad sense, any conversion or embezzlement. Anno: 55 ALR 836. A colloquial term for the obtaining of property for an inadequate consideration.

Having no common-law definition to restrict its meaning as an offense, the word "stealing" is commonly used to denote any dishonest transaction whereby one person obtains that which rightfully belongs to another and deprives the owner of the

rights and benefits of ownership, but may or may not involve the element of stealth usually attributed to the word purloin. *Crabb v Zerbst* (CAS Ga) 99 F2d 562.

See **intent to steal; larceny; stolen.**

stealing. See **steal.**

stealing child. See **kidnapping.**

stealth. Acting in such manner as to not to disclose the act. Furtive action.

Where a person is accused of taking property from another by stealth, the word necessarily connotes lack of knowledge on the part of the victim. *Spencer v United States*, 73 App DC 98, 116 F2d 801.

See **steal.**

steamboat. Watercraft propelled by the power of steam, that is, by a steam engine. 12 Am J2d Boats § 1.

See **steamship.**

steamboat channel. A term sometimes employed in establishing a boundary in a river, signifying the deepest part of the stream. *Louisiana v Mississippi*, 202 US 1, 49, 50 L Ed 913, 930, 26 S Ct 408, 571.

steamboat company. A corporation, company, association, joint stock association, partnership, or person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, leasing, operating or managing any vessel over and upon public waters. *State ex rel. Stimson Timber Co. v Kuykendall*, 137 Wash 602, 243 P 834, 55 ALR 954, affd 275 US 207, 72 L Ed 241, 48 S Ct 41.

steamboat debts. All existing debts contracted for repairs, supplies, and running expenses for and on account of the steamboat, for which the owner is liable. *Moran v Prather* (US) 23 Wall 492, 23 L Ed 121, 123.

steam boiler. A boiler used for producing steam and holding it under pressure; an inherently dangerous instrumentality. *Rosenfeld v Albert Smith & Son, Inc.* 180 App Div 691, 168 NYS 214, affd 227 NY 613, 125 NE 924.

steam company. A company engaged in producing steam and holding it under pressure for distribution to users through mains and pipes, primarily for heating dwelling houses, office buildings, and industrial plants. 26 Am J2d Electr § 25. steam dredge. See **dredge.**

steam engineer. The operator of a steam engine. A mechanical pursuit for the purpose of a tax exemption. 51 Am J1st Tax § 548. One who has a watch in the engine room and stokehole of a steamship. *Baggaley v Aetna Ins. Co.* (CA7 Ill) 111 F2d 134.

steam-roller. A vehicle equipped and running upon heavy rollers, used in pressing loose materials upon the ground into a compact form with smooth surface, particularly in paving streets and highways.

steamship. A ship propelled by the power of steam, that is try steam engine. In loose usage, a ship propelled by power other than that of wind on sail.

steamship agent. A ship broker. A managing agent within the meaning of statutes concerning the service of process upon foreign corporations. Anno: 113 ALR 78, 79.

steam vessel. See **steamboat; steamship.**

steel. A hard metal produced from iron and an alloy of carbon and metals such as nickel and chromium.

The working and hardening of steel were common three thousand years ago in Greece and it probably required a number of centuries for it to reach the stage it had then arrived at in Greece. Damascus steel was produced in Oriental countries in very remote periods. *United States v Aluminum Co. of America* (DC NY) 44 F Supp 97.

steel mill. A mill for the production of steel and the shaping of the metal into various forms for use by manufacturers.

See **all-pull mill**.

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steer. Verb: To control a vehicle or vessel in respect of the direction of movement. Noun: A castrated male of the cattle family, kept primarily for the production of beef by rapid growth superinduced through intensive feeding.

steerage. The lowest classification of a ship's accommodations for passengers.

steering rules. Navigation rules for small watercraft. 12 Am J2d Boats § 14.

See **rules of navigation**.

stellionate. Fraud committed in entering into a contract for the sale of property which the vendor has previously sold.

stenographer. One who takes notes of dictation in shorthand and transcribes them in typewriting. In loose usage, a typist. A "laborer" for the purposes of an exemption from execution. 31 Am J2d Exempt § 20. A "worker" within the meaning of some labor laws. 31 Am J Rev ed Lab § 1.

See **court reporter**.

stenographer's notes. The notes written in shorthand upon the taking of a deposition. *Scott v Missouri-Pacific R. Co.* 333 Mo 374, 62 SW2d 834.

stenographically reported. See **stenographic notes of court reporter**.

stenographic notes of court reporter. The court reporter's notes, taken in shorthand, of the testimony in a case in the form of questions propounded to a witness by counsel or court and the answers or responses of the witness, objections by counsel, the rulings thereon, exceptions to rulings, the colloquy between court and counsel or between counsel pertaining to the case, and in some jurisdictions the instructions given by the court to the jury. 53 Am J1st Trial § 563.

A trial in a Federal court is not "stenographically reported" unless the reporter was one appointed under the Federal Rules of Civil Procedure or was agreed upon by the parties. The rule does not contemplate that one party shall employ a stenographer of his choice to report for him, without the authority of the court or the adversary. *Middleton v Hartford Acci. & Indem. Co.* (CA5 Tex) 119 F2d 721.

stepchild. A son or daughter of one's spouse by a former spouse. *Re Smith's Estate*, 49 Wash 2d 229, 299 P2d 550, 63 ALR2d 299. A son or daughter of one's spouse, born to him or her before the marriage to one, and not one's own child. Not a child within the meaning of a statute providing for inheritance by "children" of the intestate. 23 Am J2d Desc & D § 55.

One does not cease to be a stepchild within the meaning of an inheritance tax statute prescribing the rate of taxation on legacies to stepchildren, upon the death of the natural parent, even where there are no surviving issue of the marriage which created the relationship. *Re Bordeaux' Estate*, 37 Wash 561, 225 P2d 443, 26 ALR2d 249.

stepfather. The relationship of a man to his stepchild.

See **stepchild**.

Stephen. The king of England from December 26th, 1135, until October 25th, 1154.

stepmother. The relationship of a woman to her stepchild.

See **stepchild.**

stepparent. A stepmother or a stepfather. Department of Welfare v Siebel, 6 NY2d 536, 190 NYS2d 683, 161 NE2d 1, app dismd 361 US 535, 4 L Ed 2d 538, 80 S Ct 586. Not a parent within the meaning of a statute providing for the descent of property to a parent. 23 Am J2d Desc & D § 57.

See **stepchild.**

stepping stone. A block of stone, sometimes wood, frequently used in former times when vehicles were higher, for alighting from carriage or other means of conveyance. A means of advancement in position or situation.

stepping up or stepping down current. See **transformer.**

A rate so determined is known as a "current cost rate." Jenkins v Talbot, 338 Ill 441, 170 NE 735, 80 ALR 638.

step rate method. A recognized method of fixing rates of fraternal life insurance based on the principle that the insured pays only so much as the society may require to meet its death losses for that year in the membership age of the insured.

stereotype. A plate for printing press, cast in type metal.

stereotype matter. Content of a newspaper produced by persons other than those writing particularly for such paper. Anno: 68 ALR 550.

sterility. Incapability of producing offspring. Vileta v Vileta, 53 Cal App 2d 794, 128 P 376. Inability to beget or bear children, not necessarily associated with loss of power of copulation. 24 Am J2d Div & S § 80.

sterilization. The process by which an article is rendered free from disease germs, such as the disinfection of secondhand goods to prevent the spread of contagious diseases. 47 Am J1st Sec H D § 5. Ridding clothing and other articles, particularly milk bottles, of microbes by exposure to great heat or chemical action. 25 Am J1st Hlth § 31. The operation of removing the organs of reproduction or rendering them ineffective, sometimes authorized by statute in reference to certain criminals. 21 Am J2d Crim L § 612. An operation upon a mental defective to deprive him or her of the power of procreation. 29 Am J Rev ed Ins Per § 33. An operation upon a man for the purpose of protecting his wife from conception and the dangers attendant upon childbirth. Anno: 93 ALR 573.

sterling. Adjective: Standard quality, particularly in reference to silver. Made of silver of standard quality. Noun: Silver of standard quality. English money. Precisely, the standard of fineness of English money.

stet processus. An entry of the dismissal of an action voluntarily made by the plaintiff.

stevedore. One who works in the loading and unloading of ships. 27 Am J1st Ind Contr § 17; 48 Am J1st Ship § 211.

A stevedore is not a seaman. Zarowitch v F. Jarka (DC NY) 21 F2d 187.

stevedore's lien. A maritime lien for services rendered in loading or unloading a vessel lying in navigable waters. 48 Am J1st Ship § 212.

steward. An employee of ship or airline attending to the personal needs of passengers. One in management of the services of a social club in reference to

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providing meals, other refreshments, and rooms for lodging.

See **lord high steward; shop steward.**

steward and marshal. See **court of the steward and marshal.**

steward of chiltern hundreds. An honorary office in England.

steward of the king's household. See **court of the steward of the king's household.**

stewardess. A female steward. Best known in modern times as an attendant serving the personal needs of passengers upon an air liner.

sticker. A small gummed piece of paper carrying a name, for use in an election in voting for the person named on the paper by inserting the paper in a blank space on the ballot or, as sometimes authorized by statute, by placing the paper over a printed name appearing on the ballot. 26 Am J2d Elect § 269.

stifling bids. Acts or statements intended to prevent bidding at an auction. 30A Am J Rev ed Jud S § 98. Any conduct, artifice, agreement, or combination, which prevents open, free, and competitive bidding at an auction. 7 Am J2d Auct § 28.

See **chilling bids.**

stifling competition. See **stifling bids; suppression of competition.**

stick up. Same as **hold up.**

stickler. An obstinate and uncompromising person.

stiletto. See **dagger.**

still. Equipment for the distillation of liquor, especially alcoholic liquor. Any instrument or device capable of separating alcohol from any liquid containing alcohol; a still worm, which is any vessel capable of being used for the purpose of distilling. State v Scott, 119 Or 446, 249 P 817.

still beer. A substance made of corn meal and molasses, designed for the purpose of, and to be used for, distilling whisky.

It is alcoholic and will produce intoxication if drunk to excess. Where it has been found to be in such physical state that it could be actually drunk as a beverage, it has been held to be such. Patterson v State, 24 Ga App 239.

stillborn child. A child without life at the moment of birth; dead when born. Western Union Tel. Co. v Cooper, 71 Tex 507, 9 SW 598.

stillicidium. A servitude of eavesdrip.

See **eaves-drip.**

Stillwell Act. A New York statute passed in 1831, relative to imprisonment for debt.

still worm. The coil of pipe in a still.

See **still**.

stint. Limit; restriction. An allotment. Blackstone says that a right of common of pasture which has not been admeasured is erroneously called a "common without stint." See 3 Bl Comm 239.

stipend. A salary or other periodic or regular payment.

stipendiary. A person who receives a remittance regularly. A person receiving compensation regularly for services. A magistrate compensated by a salary.

stipendiary estate. An estate granted for military services.

stipulate. To enter into a stipulation or agreement.

stipulated damages. Same as **liquidated damages**.

stipulatio. (Roman law.) An undertaking or security given by the plaintiff in an action for the prosecution of the action and the payment of costs if he loses the cause. See 3 Bl Comm 291.

stipulation. In admiralty, the equivalent of a bond furnished in a proceeding. 2 Am J2d Adm § 157. An agreement, admission, or concession made in a judicial proceeding by the parties thereto or their attorneys, in respect of some matter incident to the proceeding, for the purpose, ordinarily, of avoiding delay, trouble, and expense. 50 Am J1st Stip § 2. A method of voluntary dismissal of action. 24 Am J2d Dism § 7.

Stipulations differ in their character, some being mere admissions of fact, simply relieving a party from the inconvenience of making proof, while others embody all the essential characteristics of a contract. *Thayer v Federal Life Ins. Co.* 217 Wis 282, 258 NW 489.

stipulation for exchange. A provision, usually written "with exchange" after the amount, in a promissory note which obligates the maker to pay exchange where payment of the note is made in foreign money. 11 Am J2d B & N § 165.

stipulation for judgment. A consent to the entry of the judgment.

A consent to a judgment is a waiver of errors by a party consenting thereto and a judgment entered by consent or stipulation will not be disturbed on appeal. See *Morrow v Learned*, 76 Cal App 538, 245 P 442.

stipulation for safe return. A bond given by one set of owners of a vessel in order to employ her when the others dissent, to secure the safe return of the vessel, or in case of her loss to pay to the dissenting owners the value of their shares. 48 Am J1st Ship § 102.

stipulation of facts. An agreement by the parties to an action on certain particular facts, thus avoiding the need to present evidence regarding them but not eliminating the court's function of drawing inferences from the stipulated facts and others shown by evidence. 3 Am J2d Agr C § 5. The equivalent in some American jurisdictions of agreed case. *Northwestern Mut. Life Ins. Co. v Tone*, 125 Conn 183, 4 A2d 640, 121 ALR 993; *Pryor v Briggs Mfg. Co.* 312 Mich 476, 20 NW2d 279, 161 ALR 699.

stipulation pour autrui. A stipulation, so called in the civil law, made by the parties to a contract in favor of a third person, he remaining a third person and a stranger to the contract until, by accepting the stipulation, he becomes a party. *Allen & Currey Mfg. Co. v Shreveport Waterworks Co.* 113 La 1091, 37 So 980.

stipulatio sponsalitia. Same as **sponsalia**.

stipulator. A promisor. A surety on a bond or stipulation filed in an admiralty suit. 2 Am J2d Adm § 157. Broadly, one who enters into a stipulation.

stirps. Same as **stirpes**.

stirpes. The person from whom a family or branch of a family is descended. A branch of a family.
See **per stirpes**.

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stirpital distribution. See **per stirpes**.

stock. The capital, shares of stock, or certificates of stock issued by a corporation. The sum of all the rights and duties of shareholders in a corporation. 18 Am J2d Corp § 208. Shares in a joint stock company. 30 Am J Rev ed Jnt-Stk Co § 10.

The word is sometimes used in statutes as a generic term referring to livestock, and when so employed it means such animals as horses, mules, and cattle, but as the word was used in a bequest of "all my notes, bonds, stock, and money," the court held that it was "in the wrong stable" to be construed as meaning livestock, but that it meant dead stock, choses, bonds, evidence of an interest in the capital stock of some incorporated or joint-stock company. *Capehart v Burros*, 122 NC 119, 29 SE 97.

See **capital stock; livestock; nursery stock; public stocks**.

stock and bond broker. Same as **stockbroker**.

stock and bond plan. A method of computing the aggregate market value of a taxpayer's capital stock. 51 Am J1st Tax § 834.

stock and carriers. An old term of art in the postal laws for horses and men. 41 Am J1st P O § 89.

stock assessment. A demand or request made of stockholders or of subscribers to corporate stock for contribution proportionate in amount to the number of shares held or subscribed for to replace a loss of capital. A method of enforcing the super-added liability of a stockholder in bank or other corporation. The evaluation of corporate stock for taxation. 51 Am J1st Tax § 834.

stock association. Same as **joint-stock company**.

stock bailout. Preferred stock issued as a nontaxable stock dividend. IRC § 305.

stock bin. A bin in a steel plant holding one or two days' supply of ore for a furnace. *Youngstown Sheet & Tube Co. v Bowers*, 358 US 534, 3 L Ed 2d 490, 79 S Ct 383.

stockbook. A corporate record of the stockholders of a corporation, showing the amount of stock held by each, the numbers of the stock certificates issued to the particular stockholders, etc. 18 Am J2d Corp § 470.

See **subscription book**.

stockbroker. An agent, who, for a commission or brokerage fee, bargains or carries on negotiations in behalf of his principal as an intermediary between the latter and third persons in transacting business relative to the sale or purchase of corporate stock, bonds, and other securities. *Banta v Chicago*, 172 111204, 50 NE 233; 12 Am J2d Brok § 1. A person employed in buying

and selling stocks. *Banta v Chicago*, 172 Ill 204, 50 NE 233, 40 LRA 611, 615. One who engages in the business of selling, offering for sale, or negotiating for the sale of, any security. Anno: 87 ALR 71. A person engaged for all or part of his time in the business of buying and selling securities who, in the transaction concerned, acts for, or buys a security from or sells a security to, a customer. UCC § 8-303. One who deals in stock of moneyed corporations and other securities. *Little Rock v Barton*, 33 Ark 436, 446, 447.

stockbroker's lien. See **broker's lien.**

stock car. A railroad car built to carry livestock, sometimes called, for no good reason, a palace car. In racing parlance, an automobile built for ordinary use, as distinguished from one built for racing only.

stock certificate. A written instrument signed by the proper officers of a corporation, stating or acknowledging that the person named therein is the owner of a designated number of shares of its stock. *Whitehead v Gormley*, 116 Okla 287, 245 P 562, 47 ALR 171; 18 Am J2d Corp § 245. Evidence of the ownership of intangible property interests in the corporation. *Millar v Mountcastle*, 161 Ohio St 409, 119 NE2d 626, 49 ALR2d 381. Not a mere evidence of a stock but, in effect, the stock itself, under the Uniform Stock Transfer Act and the Uniform Commercial Code. 6 Am J2d Attach § 39.

Stock certificates are frequently spoken of as securities but they are not securities in the strict legal significance of that term, since they are not evidences of indebtedness. *Nelson v Owen*, 113 Ala 372, 21 So 75.

stock company. A corporation. A company or association which has issued shares of stock representing ownership of proportionate interests in the enterprise. A company organized to present a repertoire of plays in one city, ordinarily in one theater.

See **joint-stock company; stock insurance company.**

stock control. See **control of corporation.**

stock corporation. The ordinary private corporation with a capital stock divided into shares. *People ex rel. Winchester v Coleman*, 133 NY 279, 31 NE 96.

See **stock insurance company.**

stock district. A district established under statute with the purpose and effect of requiring the owners of livestock within the district to keep their livestock restrained against trespassing upon the premises of other persons in order that crops may be cultivated on unfenced premises. 4 Am J2d Ani § 51.

stock dividend. A dividend paid by a corporation in stock of the corporation or in stock which the corporation holds in another corporation. *Liebman v Auto. Strop Co.* 241 NY 427, 150 NE 505. A corporate dividend payable in stock instead of cash, the declaration of which involves the creation and issuing of new stock to be distributed pro rata to the shareholders as evidence of the contemporaneous transfer of an equivalent amount of the surplus earnings or profits to the capital fund of the corporation. 19 Am J2d Corp § 812. An increase in the number of shares, the increased number representing the same property that was represented by the smaller number of shares. *Booth v Gross K. & Co.* 30 NM 465, 238 P 829, 41 ALR 868.

Far from being a realization of profits of the stockholder, such a dividend tends rather to postpone such realization, in that the fund represented by the new stock has been transferred from surplus to capital, and is no longer available for actual distribution. *Eisner v Macomber*, 252 US 189, 64 L Ed 521, 40 S Ct 189.

As to what constitutes a stock dividend under the rules governing allocation of stock dividends between income and principal in a trust estate. See Anno: 44 ALR2d 1297.

stock exchange. See **exchange.**

stock exchange certificate. A certificate of membership in a stock exchange. Anno: 44 ALR2d 947, § 16.

stock grazers. Persons who make use of their land in pasturing livestock. Persons who make a business of producing livestock for the market.

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stock grazers' bounty. A bounty paid for the protection of interests of stock grazers; a bounty on predatory animals.

stockholder. The owner of one or more shares of stock in a corporation which has a capital stock. 18 Am J2d Corp § 460. One who appears on the books of the corporation as a holder of stock issued by the corporation. A person distinct from the corporate entity. *J. F. Parkinson v Building Trades Council*, 154 Cal 581, 98 P 1027.

Persons become stockholders either by original subscription, by direct purchase from the corporation, or by subsequent transfer from the original holders.

The purchase of stock of a corporation is not a loan to that corporation of the amount of such stock. None of the elements of debtor and creditor exist. *Oklahoma Hotel Bldg. Co. v Houghton*, 202 Okla 591, 216 P2d 288, 16 ALR2d 1307.

stockholder's derivative suit. See **derivative action**.

stockholder's liability. A liability for debts of the corporation, once imposed to a limited extent upon stockholders by constitutional or statutory provisions, since eliminated except for certain classes of debts, such as wages or obligations incurred before the prescribed amount of capital stock was subscribed for or paid in, and, of course, liability upon unpaid shares. 10 Am J2d Banks § 73; 19 Am J2d Corp § 775.

See **superadded liability**.

stockholders' meeting. A meeting of the stockholders of a corporation called for the purpose of electing directors and transacting other business requiring the action or consent of the stockholders, such as, amendment of the articles or certificate of the corporation, sale or mortgage of corporate assets, consolidation and merger, etc. 19 Am J2d Corp § 599.

stockholder's primary liability. The liability of a stockholder directly to a creditor of the corporation under former statutes, such liability attaching immediately upon the contracting of the debt by the corporation.

See **stockholder's liability**.

stockholder's secondary liability. The liability of a stockholder to a creditor of the corporation under former statutes, such liability arising upon the exhaustion of all remedies against the corporation for the collection of the debt, at least not before the return unsatisfied of an execution taken out upon a judgment obtained against the corporation upon the debt.

See **stockholder's liability**.

stockhouse. A place in a steel mill wherein one or two days' supply of ore for a furnace is kept. *Youngstown Sheet & Tube Co. v Bowers*, 358 US 534, 3 L Ed 2d 490, 79 S Ct 383.

stocking. An item of knit goods. *Vietor v Arthur*, 104 US 498, 26 L Ed 633. Adding to a stock of merchandise or replacing articles sold from such stock.

stock insurance company. An insurance company organized and operating as a private business corporation rather than as a mutual insurance company or mutual benefit society. An incorporated insurance company in which the initial capital investment is made by subscribers to the stock, and the business is thereafter conducted by a board of directors elected by the stockholders, and, subject to state statutes, the distribution of earnings and profits as between stockholders and policy holders is determined

by the board. *Atlantic Life Ins. Co. v Moncure* (DC Va) 35 F2d 360, *affd* (CA4) 44 F2d 167, *cert den* 283 US 823, 75 L Ed 1438, 51 S Ct 346. An insurance corporation which has a capital stock owned by its stockholders, and whose capital is the basis of its business, out of which the losses and expenses are paid, with those insuring in such company paying premiums as the basis of their contract. An insurance company wherein the stockholders contribute all the capital, stand all the losses and take all the profits. *State v Willett*, 171 Ind 296, 86 NE 68.

stock in trade. That form of property owned by a craftsman upon which he exercises his art, skill, or workmanship, and upon which he uses the tools of his trade or business, including raw materials and the manufactured goods themselves. 31 Am J2d Exemp § 113. A merchant's stock of goods.

See **stock of merchandise**.

stock of descent. An ancestor in whom a succession of inheritance begins.

stock of goods. See **stock in trade**; **stock of merchandise**.

stock of merchandise. The stock in trade of a merchant. The goods or chattels which a merchant holds for sale. *Swift & Co. v Tempelos*, 178 NC 276, 101 SE 8, 7 ALR 1581, 1584.

stock-option. An option for the purchase or sale of corporate stock. 18 Am J2d Corp § 299. Often having reference to an option held by an officer of or key employee of the corporation for the purchase of stock from the corporation or from some source provided by a definite plan.

See **call**; **put**.

stock-option plan. A plan for granting options to corporate officers or employees for the purchase of stock in the corporation, usually limited in respect of the number of shares and specific in reference to the price. 18 Am J2d Corp § 299.

stock rights. See **rights**.

stocks. A contrivance employed in former times for the discipline or punishment of a prisoner, consisting of a board through holes in which his feet and arms protruded.

stock split. An increase in the number of shares evidencing the ownership of a corporation without altering the amount of capital, surplus, or segregated earnings. 19 Am J2d Corp § 808. A mere dividing up of the outstanding shares of a corporation into a greater number of units without disturbing the stockholder's original proportional participating interest in the corporation; a matter of form not of substance. *Re Hormann's Estate*, 3 App Div 2d 5, 157 NYS2d 704; *Re Hogan's Estate*, 24 Misc 2d 449, 138 NYS2d 864.

stock subscription. See **subscription to stock**.

stock subscription book. See **subscription book**.

stock subscription note. A note covering the liability of a subscriber to corporate stock upon his subscription contract. *Crofoot v Thatcher*, 19 Utah 212, 57 P 171.

stock range. See **range**.

stock transfer. The process of transferring the ownership of a share or shares of corporate stock.

Stock Transfer Act. One of the uniform laws. A stop cock. A comprehensive statute respecting the transfer of corporate stock and the rights of transferees. 18 Am J2d Corp § 376. A uniform law specifically repealed by the UCC. 15 Am J2d Com C § 6.

stock transfer agent. See **transfer agent.**

stock transfer tax. An excise tax on the transfer of shares of corporate stock. A stamp tax on both the issuance and transfer of shares of corporate stock. 50 Am J1st Stk Tr Tax § 2.

stockyard. A place with facilities for the reception and care of livestock in connection with the transportation or marketing thereof. 50 Am J1st Stocky § 1. A place conducted for profit as a public market, with pens in which livestock are received and kept for sale or shipment. *Stafford v Wallace*, 258 US 497, 513, 66 L Ed 735, 740, 42 S Ct 397, 23 ALR 229.

stockyard corporation. A corporation engaged in maintaining and operating a stockyard as a business enterprise. 50 Am J1st Stocky § 1.

Stockyards Act. See **Packers and Stockyards Act.**

stolen. Obtained by larceny or theft. In a broader sense, obtained by larceny or any manner of conversion or embezzlement. Anno: 45 ALR 836.

The word "stolen", as used in the National Motor Vehicle Theft Act (18 USC § 2312), making it a criminal offense for one to transport, in interstate or foreign commerce, a motor vehicle knowing it to have been stolen, is not limited to a taking which amounts to common-law larceny, but includes an embezzlement or other felonious taking with intent to deprive the owner of the rights and benefits of ownership. *United States v Turley*, 352 US 407, 1 L Ed 430, 77 S Ct 397, 56 ALR2d 1300.

stolen automobile. See **stolen.**

stolen goods. See **receiving stolen goods; stolen.**

stolidity. Want of emotion or excitement. *Greenfield v People*, 85 NY 75.

stomach pump. A device operating by suction and used for removing the food content of the stomach for gastric analysis. 23 Am J2d Dep § 226.

stone. A rock. A mineral found in rock. *Wright v Carrollton Gravel & Sand Co. (Ky)* 242 SW2d 751, 26 ALR2d 1449.

stonecutter's disease. A disease of the lungs to which stonecutters are subject, the cause being the lodging of tiny particles of stone in the lungs. *Sullivan's Case*, 265 Mass 497, 164 NE 457, 62 ALR 1458.

stone quarry. See **quarry.**

stoning to death. See **lapidation.**

stool. A seat supported by three or four legs, having no back.
See **cucking-stool.**

stool pigeon. A person used as a decoy for the purpose of apprehending persons suspected of crime. One who gains the confidence of another for the purpose of spying upon him and becoming an informer against him. A despicable character.

stop. Verb: To come to an end. To halt; to cease movement. To obstruct. To prevent movement. Noun: A place for stopping, as on the line or route of a carrier.

stop box. A box enclosing the valve in a gas line by which service to a house or place of business is controlled. 26 Am J2d Electr § 217.

stop cock. A valve by which the movement of a fluid or gas is stopped or regulated. A valve by which gas service to a house, place of business, or industrial plant is turned on or turned off.

stopgap ordinance. A zoning ordinance enacted in contemplation of the later adoption of a comprehensive zoning ordinance, and intended to preserve the status quo of a particular section of the municipality pending the adoption of the permanent regulations. 58 Am J1st Zon § 137.

stop, look, and listen rule. The rule adopted in some jurisdictions, known sometimes as the Pennsylvania rule, that it is the duty of a traveler approaching a railroad crossing to stop, look both ways and listen to ascertain if a train is approaching. *Dunning v Bond* (CC Miss) 38 F 813. A rule sometimes imposed upon bus drivers, particularly the drivers of school buses, by bus company or school authority.

stop loss order. See **stop order.**

stop order. An order by a public service commission which requires a carrier to stop for passengers or freight at a certain point on route or line. A direction given by a customer to his broker to the effect that if a designated stock or commodity owned by the customer touches the price named in the order, the broker shall sell it at the best available price; sometimes known as a "stop loss order," the purpose being to provide a measure of protection of the customer against loss beyond a certain point in a fluctuating market. 12 Am J2d Brok § 129.

See **stop payment order.**

stopover privilege. A privilege granted under the ticket of a passenger by common carrier whereby he may stop at a point or points intervening the place of departure and the destination specified in the ticket. 13 Am J2d Car § 318.

stoppage. An obstruction or hindrance to the doing of a particular thing. *The Cogne* (DC Va) 20 F2d 698.

stoppage in transitu. A right which a seller of goods on credit has to recall them or retake them while they are in the possession of a carrier or other middleman who received them for delivery to the buyer, on the discovery of the insolvency of the buyer. 46 Am J1st Sales § 526.

stoppage of work. A cessation of the work and operations in a place of employment.

The phrase, as used in the amended provision of the Unemployment Compensation Act disqualifying an employee for benefits for unemployment due to a stoppage of work existing because of a labor dispute in the establishment in which he is or was last employed, refers to the work and operations of the employer's establishment and not to the work of the individual employee, and does not operate to disqualify employees who participate in a strike which does not result in the stoppage of the employers' work. *Lawrence Baking Co. v Unemployment Comp. Com.* 308 Mich 198, 13 NW2d 260, 154 ALR 660.

See **strike.**

stop payment order. An unequivocal notice from the drawer of a check to the drawee that the check is not to be paid by the bank. 10 Am J2d Banks § 641.

stopped. See **stop; stopping or standing.**

stopping distance. The distance within which a motor vehicle may be brought to a complete stop, such

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varying with the rate of speed. 8 Am J2d Auto § 987.

For charts of stopping and braking distances, see Am Jur 2d Desk Book, Documents 174-176.

stopping or standing. A vehicle motionless in street or highway, whether or not parked. *Modern Indiana Transit, Inc. v Burk*, 228 Ind 162, 89 NE2d 905, 17 ALR2d 572.

stopping payment. The closing of a bank upon its insolvency. The act of the drawer of a check in revoking or cancelling the check, before it has been certified, accepted, or paid by the bank upon which it is drawn, by giving an unequivocal direction or instruction to the bank that the check is not to be paid. 10 Am J2d Banks § 641.

See **stop payment order.**

stopping well. Same as **plugging well.**

stop sign. A sign upon highway or street requiring a stop by the driver of any vehicle using the street, particularly signs calling for a stop at an intersection with another street or highway. 7 Am J2d Auto § 196. A sign placed along a railroad track calling for the stopping of a train at that point.

stop signal. A signal given by the driver of a vehicle on the highway, by hand, light, or mechanical device, to warn other drivers, particularly one following immediately behind, of his intention to stop. A red traffic light. 78 Am J2d Auto § 195. A signal by a traffic officer or other person to a motorist, calling for a stop. 7 Am J2d Auto §§ 746, 747. A red light, mechanical, or hand signal given to the engineer or other employee of the railroad in charge of the movement of a train that the train is to stop.

storage. See **cold storage; dead storage; live storage; warehouse.**

storage battery. A battery for generating electric current, especially current for the ignition of an internal combustion engine.

storage lien. A maritime lien for the storage of watercraft. 12 Am J2d Boats §§ 30, 31. A lien for the storage of an automobile. 24 Am J1st Garag §§ 48 et seq.

See **warehouseman's lien.**

store. Verb: To lay away; to put in storage. Noun: A place where goods are kept on deposit, especially in large quantities—a warehouse; and also, a place where goods are kept for sale in large or small quantities. *Pitts v Vicksburg*, 72 Miss 181, 184. A place where goods and merchandise are kept and sold.

An establishment for the sale of merchandise is a "store" notwithstanding all sales are confined to residents of the plantation owned by the storekeeper. 33 Am J1st Lic § 47.

See **department store; public store; secondhand store.**

store account. A book account kept by the keeper of a store for goods sold on credit. *Salomon v Pioneer Co-operative Co.* 21 Fla 374.

See **book account.**

stored or kept. Warehoused or deposited for safekeeping. 29A Am J Rev ed Ins § 921 (involving condition in insurance policy that certain articles shall not be "stored or kept" upon the premises.)

See **storing or keeping**.

store furniture. See **furniture; trade fixtures**.

storehouse. A warehouse. A repository for the storage of goods. *Steele v State*, 80 Neb 9, 113 NW 798.

See **entrepot; magazine; warehouse**.

stores. The supplies of different articles provided for the subsistence and accommodation of the ship's crew and passengers. *United States v Hawley & Letzerich* (CC Tex) 160 F 734.

See **store**.

storing or keeping. Warehousing or depositing for safekeeping.

As used in the Federal Fair Labor Standards Act of 1918, the word is defined as meaning the placing of agricultural or horticultural commodities in storage rooms or other places where the commodities are to be held prior to further preparation or shipment, or the taking care of the commodities while they are being so held. *Gordon v Paducah Ice Mfg. Co.* (DC Ky) 41 F Supp 980.

See **stored or kept**.

storm. A manifestation of the operation of natural forces in the fall of rain, hail, or snow, especially when accompanied by wind. A high wind blowing at the rate of from sixty to eighty miles an hour. *The Snap* (DC Va) 24 F 292.

See **cyclone; tornado**.

storm sewer. See **sewer**.

storm waters. Enemy waters,—freshet and flood waters of a river, as distinguished from its ordinary and usual flow. *Herminghaus v Southern California Edison Co.* 200 Cal 81, 252 P 607.

See **flood waters**.

story. A habitable space between two floors of a building; a set of rooms on the same floor or level. *Biber v O'Brien*, 138 Cal App 353, 32 P2d 425. All the rooms on one level of a building; a horizontal section of a building. 32 Am J1st L & T § 1662. A term commonly used in expressing a maximum height restriction in a covenant contained in a deed or land contract. *Hobson v Cartwright*, 93 Ky 368, 20 SW 281. The relating of an event or series of events, real or imaginary, in words uttered orally or written. A literary work.

As used in a lease describing the demised premises as a "story" or a "floor," such term includes the outside of the walls inclosing such story or floor as a part of the premises demised, for it is the apparent intention in such cases to separate a section of the building as a distinct tenement. The words "story" and "floor" define the lower and upper boundaries of this, but there is nothing to fix the lateral boundaries except the boundaries of the building. 32 Am J1st L & T § 166.

See **rumor; upper story**.

stowage. The placing of cargo on a ship.

See **broken stowage**.

stowaway. A person on a ship at sea without status as ship's officer, seaman, or passenger. A person who conceals himself on board a vessel about to leave port in order to obtain a free passage. *United States v Sandrey* (CC La) 48 F 550, 551.

straddle. Noun: A transaction whereby a person protects himself against either a rise or fall of the price of a stock or commodity by obtaining options to purchase or to sell. A combination of a "put" and a "call," in which one party is either to sell and deliver to the other the commodity or stock at a specified price or to demand it from the other at a specified price, incurring no legal liability if he does neither. Anno: 83 ALR 573. Verb: To drive over the median line of the highway. 8 Am J2d Auto § 952.

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straddle year. A fiscal year adopted by a corporation for tax purposes, a part of which comes before a tax rate change and part after such change.

straight annuity. An annuity payable under a contract which provides for the termination of all payments upon the death of the annuitant. 4 Am J2d Annu § 1. An annuity under which the payments to be made by the insurance company terminate upon the death of the annuitant, without refund of any part of principal or interest to a third person. *Bartle v Pennsylvania R. Co.* 51 Ohio L Abs 161, 78 NE2d 410, mod on other grounds 150 Ohio St 387, 38 Ohio Ops 237, 82 NE2d 853.

straight bill of lading. A nonnegotiable bill of lading; a bill of lading in which it is stated that the goods are consigned or destined to a specified person. 13 Am J2d Car § 265.

straight life. The most common form of life insurance; ordinary life insurance. Life insurance which matures and calls for payment by the insurer only upon the death of the insured, containing no endowment or other feature calling for payment of the proceeds of the insurance prior to that time.

straight line depreciation. A deduction in calculating net income subject to tax, computed by dividing the adjusted basis of the property at the beginning of the year, less the estimated salvage value, by the number of years of estimated useful life remaining at the time. Internal Revenue Code § 167.

straight party ticket. A ballot whereon the candidates voted for are all of one party. A ballot facilitated by a provision for a party square or circle on the ballot whereby, if marked, the entire party ticket is voted without more. 26 Am J2d Elect § 260.

strait jacket. An instrument of discipline or restraint, consisting of a stout tight jacket which binds the arms firmly against the body, used in restraining violent criminals and mentally unbalanced persons.

stramineus. (Latin.) Straw.

stramonium. A narcotic poison the effects of which, taken internally, are intoxication, delirium, loss of sense, drowsiness, a sort of madness and fury; loss of memory, convulsions, spasms, paralysis of the limbs, cold sweats and excessive thirst. *Pitts v State*, 43 Miss 472, 485.

strand. Shore; that portion of the land lying between ordinary high and low water marks. *Stillman v Burfeind*, 21 App Div 13, 15, 47 NYS 280, 281.

stranded logs. Logs intended to be floated to a destination on a stream but remaining on the land after washing ashore. 34 Am J1st Logs § 76.

stranded vessel. See **stranding**.

stranding. A peril of the sea. *Lanasa Fruit Steamship & I. Co. v Universal Ins. Co.* 302 US 556, 82 L Ed 422, 58 S Ct 371. The striking of a vessel upon a rock, bank, reef, or the like. *Strong v Sun Mutual Ins. Co.* 31 NY 103. A ship running aground

or taking ground, not in the ordinary course of navigation, but by accident, or the force of the wind or sea, and remaining stationary for some time. 29A Am J Rev ed Ins § 1318. Being left in a helpless position; being left without funds in a strange city.

In the law of marine insurance, the term implies a stopping of a vessel's progress and a resting for a longer or a shorter period. *Lehigh & Wilkes-Barre Coal Co. v Globe & Rutgers Fire Ins. Co.* (CA2 NY) 6 F2d 736, 43 ALR 215, 218.

See **voluntary stranding**.

stranger. One who was not a party to a transaction. One not in interest. As a depository of an escrow:—one not a party to the instrument; one so free from any personal or legal identity with the parties to the instrument as to leave him free to discharge his duty as a depository to both parties without involving a breach of duty to either. 28 Am J2d Escr § 12.

As used in a statute making absolutely void the attornment of a tenant to a "stranger," the word has been held to signify a person between whom and the landlord there is no privity, and whose title or right of possession is not derived from the landlord but is hostile to his title. See *O'Donnell v McIntyre*, 118 NY 156, 164, 23 NE 455.

Within the meaning of an inheritance tax statute, the term has been construed as intended to exhaust the whole category of persons who might be called to the inheritance, whether by will or ab intestato; so construed, the term applies to all who have not the status of legitimate ascendants, descendants, or collateral relations, and thus includes a widow. *Baker's Succession*, 129 La 74, 55 So 714.

stranger to judgment. One neither a party to the action nor in privity with a party. 30A Am J Rev ed Judgm § 393.

stranger to the blood. One not related by blood. A relative by affinity, not by blood, such as wife, daughter-in-law, or son-in-law. *Campbell v California*, 200 US 87, 50 L Ed 382, 26 S Ct 182.

strangulation. Causing death by cutting off the breath, as by squeezing the throat with hands or a cord. 26 Am J1st Homi § 436.

strappado. A form of punishment or torture inflicted by raising the victim with a rope and then letting him drop with an ensuing painful jerk.

straw. The product left from a cutting of mature wheat, oats, barley, etc. after the grain has been removed therefrom by threshing.

straw bail. See **straw bond**.

strawberries. A vine crop. 21 Am J2d Crops § 4.

straw bond. A bail bond with sureties who are financially irresponsible. A bail bond in which the surety or sureties are fictitious persons. *People v Bogart* (NY) 3 Park Crim 143, 172.

straw man. A dummy. An irresponsible bondsman or surety. One made to appear as the owner of record who in fact holds title for another.

straying animal. See **estray**.

stream. A river, brook, or rivulet, anything in fact that is liquid and flows in a line or course. *French v Carhart*, 1 NY 96, 107. A steady current in a river or in the sea, especially the middle or most rapid part of a current or tide; as the gulf stream. A continued course or current.

The distinction between a stream and a pond or lake is that in one case the water has a natural motion or current, while in the other the water in its natural state is substantially at rest. The fact that there may be some current in a body of water is not alone sufficient to make it a stream, nor will the swelling out of a stream into broad water sheets make it a lake. *Illinois Cent. Railroad Co. v Chicago*, 173 Ill 471, 50 NE 1004.

See **bed of stream; channel; thread of stream.**

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streamline. A shape or design calculated to decrease wind resistance, particularly in reference to aircraft, motor vehicles, railroad cars, and watercraft.

Streamline in the planning of bodies of airplanes, boats, automobiles, and railroad cars, is a design which will result in uninterrupted flow of the air or water about the body, instead of an eddying or turbulent motion. A streamlined body offers the least possible resistance to the fluid, and permits the current which it breaks simply to reunite in its wake, without the retarding or dragging eddies and turbulence created by partial vacuum in the wake of a non-streamlined body. The streamline design is typically a long ellipse, tapering to a point; it is illustrated in the cross-section of an airplane wing, and in a bird's and a fish's body. *Forman v American Express Co.* (DC NY) 37 F Supp 82.

street. A highway or public thoroughfare in an urban community, such as a city, town, or village. 25 Am J1st High § 7. A kind of highway, the public having the right to use it for purposes of travel. *Chicago Motor Coach Co. v Chicago*, 337 Ill 200, 169 NE 22, 66 ALR 834; *Graff v Casper*, 73 Wyo 486, 281 P2d 685, 52 ALR2d 254.

While the term does not include the mere private way, it does include all the public roads or ways within the municipality over which it has jurisdiction and as to which it owes the public the duty of exercising reasonable care to keep them and maintain them in reasonably safe condition for public use. *Indian Rocks Beach South Shore, Inc. v Ewell* (Fla) 59 So 2d 647, 32 ALR2d 940.

The term is not applicable to rural highways. Some authorities take the view that the term is generic, embracing all urban ways which can be, and are generally, used for ordinary purposes of travel. Others limit the application of the term to thoroughfares in the built-up portions of the urban territory. 25 Am J1st High § 7.

There are cases pro and con on the question whether a statutory regulation of "highway" traffic is applicable to traffic upon a "street." 7 Am J2d Auto § 170.

The word means more than the surface; it means the whole surface and as much of the depth as is, or can be, used, not unfairly, for the ordinary purpose of a street. It comprises a depth which authorizes the urban authority to do that which is done in every street, namely, to raise the street, and lay down sewers, and also to lay down gas and water pipes. *Cornwall v Garrison*, 59 Idaho 287, 81 P2d 1094.

A street may include a dock or a part of a dock; as where a private dock is built on a public street on the shore of navigable waters, the dock becomes a part of the street, and the public has a right to travel over it. *Pan-Pacific Constr. Co. v Meadows*, 85 Cal App 775, 260 P 355.

"Lot" and "street" are two separate and distinct terms, and have separate and distinct meanings. The term "lots" in its common and ordinary meaning, includes that portion of the platted territory measured and set apart for individual and private use and occupancy, while the term "streets" means that portion set apart and designated for the use of the public. *Earl v Dutour*, 181 Cal 58, 183 P 438, 6 ALR 1163, 1164.

streetcar. A large coach or car for the transportation of passengers, propelled over fixed tracks to which the wheels are adapted. *Montgomery v Santa Ana Westminster R. Co.* 104 Cal 186, 37 P 786. A vehicle for some purposes. *Foster v Curtis*, 213 Mass 79, 99 NE 961.

streetcar track. That part of the right of way or street on which the rails and ties are laid; the ties, spikes, rails, and switches. *Detroit Citizens Street R. Co. v Detroit*, 125 Mich 673, 85 NW 96, 86 NW 809.

street crossing. See **crossing.**

street fair. A fair conducted on the streets of a municipality, such usually being considered an improper use of the streets. 25 Am J1st High § 196.

street grade. See **grade; grade line.**

street improvement. A public improvement.

See **front foot plan; fronting and abutting; special assessment.**

street intersection. See **intersection.**

street number. The number given a street by way of designating it, such as 20th Street Parkersburg, West Virginia. 25 Am J1st High § 614. The number of a house on a particular street, constituting a part of an address. A listing of names of voters of a precinct or election district by street, address, party affiliation not appearing.

street perils. Perils peculiar to the use of a street or other public way. 58 Am J1st Workm Comp § 226.

street railroad. Same as **street railway.**

street railway. A railroad upon tracks laid on and along the streets of a municipality, primarily for the accommodation of passengers going from one point to another in such municipality or to and from the suburbs. Highland Ave. & Belt R. Co. 119 Ala 105, 24 So 114. A common carrier whether of goods or passengers. 13 Am J2d Car § 12. Operated ordinarily for the transportation of passengers only. Not a railroad in the ordinary sense. 44 Am J1st RR § 6.

Within the provisions of the Bankruptcy Act a street railway is considered a railroad. The word railroad when considered in its generic sense includes street railways; that is to say, that where there is nothing to indicate that the word is used in a restricted sense the same should be given its broad meaning. Columbia R. Gas & E. Co. v State (CA4 SC) 27 F2d 52, 59 ALR 665.

See **streetcar; streetcar track.**

street risks. See **street perils.**

streetwalker. A prostitute who solicits patronage on the streets. 42 Am J1st Prost § 2.

streetwalking. The offense committed by a prostitute in soliciting patronage on the street. The offense of a common prostitute offering herself for sale on the streets at unusual or unreasonable hours, endeavoring to induce men to follow her for the purpose of prostitution. Pinkerton v Verberg, 78 Mich 573, 44 NW 579.

strict construction. A narrow or literal construction. A narrow construction of a contract, especially a literal or technical construction of an isolated or special clause which defeats the true meaning of the contract as such is apparent from all its provisions. Sindlinger v Department of Financial Institutions, 210 Ind 83, 199 NE 715, 105 ALR 501. A narrow construction of a statute, confining its operation to matters affirmatively, definitely, irresistibly, or specifically pointed out by its terms, and to cases which fall fairly within its letter, or the clear, plain, obvious, or natural import of the language used. 50 Am J1st Stat § 388.

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strict foreclosure. The foreclosure of a mortgage without a sale of the mortgaged property, being accomplished by a suit in equity and a decree rendered therein extinguishing the mortgagor's equity of redemption, such decree calling for payment of the debt secured within a reasonable period of time fixed by the court and further providing that upon failure of the defendant or

defendants to make such payment within the time prescribed, all the right, title, and interest, both legal and equitable, of the defendant or defendants shall be vested absolutely and forever unconditionally in the plaintiff. 37 Am J1st Mtg § 529.

In England and in some jurisdictions in this country, the rights of the vendor of land where the contract is executory may be enforced by a decree in the nature of a strict foreclosure. Such a decree has sometimes been called a decree for cancellation of the contract; time is given and, if it expires without the money being paid, the contract is canceled by the decree or judgment of the court, and the vendor again becomes the owner of the estate. 55 Am J1st V & P § 455.

stricti juris. Of strict right; of strict law; of strictly legal interpretation without aid from principles of equity. See 2 Bl Comm 108.

strictissimi juris. Of strictest right.

strict liability. Same as **absolute liability**.

strictly accountable. Absolutely liable without deduction.

strictly confidential. Not to be divulged.

The generally accepted elements of a strictly confidential relationship, position or office are enumerated as secrecy, integrity, trust, confidence, skill, and competence in the performance of the duties imposed upon the appointing officer and by him delegated to the one holding such relationship. Klatt v Akers, 232 Iowa 1312, 5 NW2d 605, 146 ALR 808.

strictly construed. See **strict construction**.

strictly ministerial. A characterization of a duty which is specific, imperative, and ministerial, without scope for exercise of discretion. 34 Am J1st Mand § 66.

stricto jure. See **in stricto jure**.

strict performance. A literal performance of the stipulations of a contract. 17 Am J2d Contr § 370.

strict priority. The principle, first enunciated in equity receivership cases, carried over to railroad reorganization cases under § 77 of the Bankruptcy Act, reaffirmed and re-enunciated in corporate reorganization cases under Ch X of the Bankruptcy Act, that in order to win the approval of the court as fair and equitable, a plan of reorganization must preserve for the holders of the several interests the advantage of their respective priorities, except as otherwise provided in the Bankruptcy Act. 9 Am J2d Bankr § 1586. A rule which gives creditors secured or unsecured the right to exclude stockholders entirely from the reorganization plan when the debtor is insolvent. Helvering v Alabama Asphaltic Limestone Co. 314 US 598, 86 L Ed 504, 62 S Ct 540.

strict record. The record proper in an action, consisting of the pleadings, the process, the verdict, and the judgment.

Where a question of law is raised upon the strict record, no exception is necessary to place such question before the United States Circuit Court of Appeals. Montgomery v Erie Railroad Co. (CA3 NJ) 97 F2d 289.

strict settlement. The entailing of an estate.

See **entail**.

strife. Altercation. Conflict; a quarrel.

Strife and contention do not necessarily imply blows. They may be evidenced by passionate words, looks and gestures. State v Warner, 34 Conn 276, 279.

strike. Verb: To eliminate; to expunge. To administer a blow. To act in concert with other employees in refusing to work. Noun: A discovery of valuable ore. Coming upon oil in quantity in drilling. A simultaneous cessation or quitting of work by a body of workmen acting in combination for the purpose of coercing their employer to accede to some demand they have made upon him which he has refused. 31 Am J Rev ed Lab § 369. A cessation of work by employees in an effort to obtain for themselves more desirable terms of employment or a general concerted refusal by workmen to work in consequence of an alleged grievance. Anno: 11 ALR 1006, s. 35 ALR 722. A cessation of work by all or part of the employees acting in concert. 29 Am J Rev ed Ins § 1371 (definition found in insurance policy). A cessation of work by employees in an effort to get for themselves more desirable terms. Anno: 28 ALR2d 298 (for purposes of Unemployment Compensation Act).

See **general strike; legal strike; lockout; picketing.**

strike benefits. Payments by a labor union to members on strike. strike breaker.

See **scab; strike breaking.**

strike breaking. Overcoming a strike or the effect of a strike. Entering employment in an industrial plant wherein a strike is in progress. Taking the place of a striking employee.

strike clause. A provision frequently inserted in executory contracts for the sale of goods whereby the seller is to be excused in case his performance of the contracts is prevented by strikes. 46 Am J1st Sales § 238.

strike fund. A fund of a labor union accumulated and held for the purpose of paying members of the union on strike.

strike insurance. See **labor dispute insurance.**

strike misconduct. Misconduct arising out of, developed by, or closely connected with, a strike by employees in a labor dispute. NLRB v Industrial Cotton Mills (CA4) 208 F2d 87, 45 ALR2d 880.

strike off. See **strike out; struck off.**

strike out. To expunge, by ruling of the court from a record or pleading, immaterial, scandalous or superfluous matter. In terminology adopted from baseball, the failure to succeed in a particular endeavor.

strike suit. A derivative action instituted by a minority of stockholders for the purpose of oppressing the majority and involving the corporation itself in disaster for selfish purposes and for reasons not always revealed. 19 Am J2d Corp § 560.

striking a docket. An English expression for the entry of the petition, bond and affidavit of a petitioning creditor in an involuntary proceeding for an adjudication in bankruptcy.

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striking a jury. See **struck jury.**

striking counterclaim. The expunging of a counterclaim upon motion. 20 Am J2d Countcl § 147.

striking distance. The position of one's assailant at such point that it is lawful to use force to repel the attack, the assailant being close enough to one as to lead one to believe that physical injury will be inflicted upon him by the assailant unless the latter is subjected to force. 6 Am J2d Asslt & B § 71.

striking employee. The status of an employee participating in a strike. *Tedesco v Turner & Seymour Mfg. Co.* 19 Conn Supp 192, 110 A2d 650.

striking evidence. A remedy to exclude improper evidence from the consideration of the jury, as where a witness has answered a question before time to interpose an objection or after an objection has been sustained, or evidence admitted upon assurance of counsel that its relevancy will appear, where such relevancy never appears. 53 Am J1st Trial § 149. Eliminating from the record a nonresponsive or objectionable answer by a witness. 58 Am J1st Witn § 575.

striking pleading. A remedy against immaterial, irrelevant, redundant, scandalous and impertinent matter in a pleading. 41 Am J1st Pl §§ 349 et seq. A remedy against a pleading considered as a whole, as where the pleading is sham or frivolous or is clearly and irremediably defective and states no cause of action or defense. 41 Am J1st Pl §§ 346-348.

stringer. A crack or crevice appearing in rock which is filled with a mineral deposit, by means of which a prospector is led to a body of ore of commercial value. *McShane v Kenkle*, 18 Mont 208, 44 P 979.

strip. To remove clothing. To become nude. To take away parts from an automobile or machine for use in other vehicle or machine. To clear ground of vegetation. To farm land to exhaustion, depriving it of fertility.

strip mining. A method of mining coal by uncovering the vein instead of reaching it by shaft and laterals.

stripper. A term of show business for a girl who removes her apparel or the most of it during her routine.

stripper well. An oil well which produces less than ten barrels of crude oil per day. *St. John v Brown* (DC Tex) 38 F Supp 385.

stroke. A sudden onset of disease, especially apoplexy or paralysis. 1 Am J2d Act of God § 10.

See **heat stroke**.

strong-arm clause. The provision of the Bankruptcy Act that the trustee in bankruptcy, as to all property, whether or not coming into possession or control of the court upon which a creditor of the bankrupt could have obtained a lien by legal or equitable proceedings at the date of bankruptcy, shall be deemed vested as of such date with all the rights, remedies, and powers of a creditor than holding a lien thereon by such proceeding, whether or not such a creditor actually exists. Bankruptcy Act § 70(c); 11 USC § 110(c); 9 Am J2d Bankr § 857.

strong arm of equity. Injunctive relief. 28 Am J Rev ed Inj § 3.

strong beer. Ordinary American beer, as made from malt and hops.

This term, though practically obsolete as recently as 1906, was once in familiar use as the name of beer made of malt and hops, and so called to distinguish it from "small beer," which was compounded of molasses and yeast with the addition of either ginger or spruce, and which contained a very small percentage of alcohol. Strong beer was rich in the intoxicating principle, analysis showing eight per cent alcohol. The courts had no difficulty in determining that it was an intoxicating liquor. *Potts v State*, 50 Tex Crim 368, 97 SW 477.

strong hand. See **with strong hand**.

struck down. See **knocked down; struck off**.

struck jury. A jury chosen from a panel drawn for a particular case, not from the regular panel, sometimes called a special jury. A jury drawn by the exercise of strikes, each party being entitled to strike a certain number of names of persons appearing as qualified jurors on a special venire drawn and summoned for the case. 31 Am J Rev ed Jury § 90. A jury selected by an officer authorized by law, as a jury commissioner, instead of being drawn from the wheel, as in the case of common jurors. State v Withrow, 133 Mo 500, 513.

struck off. The acceptance of a bid and the completion of a sale of an article at auction. 7 Am J2d Auct § 31.

In the language of the auction room, and in common parlance, property is said to be "struck off" or "knocked down," when the auctioneer, by the fall of his hammer, or by any other audible or visible announcement, signifies to the bidder that he is entitled to the property on paying the amount of his bid, according to the terms of the sale. Sherwood v Reade (NY) 7 Hill 431, 439.

structural alteration. Such an alteration of a building as changes the physical structure so materially as to create a different building. Kinston Cotton Mills v Liability Assur. Corp. 161 NC 562, 77 SE 682.

structural defect. A condition in the structure itself which renders it not reasonably safe for the use for which it was intended. Krooner v Waterbury, 105 Conn 476, 479, 136 A 93, 94.

structure. In the broad sense, any construction or piece of work composed of parts joined together in some definite manner; in a restricted sense, a building of any kind, particularly one of size. 20 Am J2d Cov § 194. Any form or arrangement of building or construction materials involving the necessity or precaution of providing proper support, bracing, tying, anchoring, or other protection against the pressure of the elements. St. Louis Park v Casey, 218 Minn 394, 16 NW2d 459, 155 ALR 1128 (as defined in a zoning ordinance). An edifice for any use; that which is built, as a dwelling house, church, shed, store, etc. Favro v State, 39 Tex Crim 452, 46 SW 932.

While a building is always a structure, all structures are not buildings. Katsoff v Lucertini, 141 Conn 74, 108 A2d 812.

strumpet. A prostitute; a female given to indiscriminate lewdness.

strychnine. An alkaloid. A poison. Riley v Interstate Businessmen's Acci. Asso. 184 Iowa 1124, 169 NW 448, 2 ALR 57.

stub. A part of an instrument, especially the statement of an account, torn off and retained as a memorandum.

stub line. A small branch line of railroad. Arizona Eastern Railroad Co. v State, 29 Ariz 446, 242 P 870.

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stub of check. That part of the sheet which remains in a checkbook after a check has been written and pulled from the book, such part normally being used to indicate the state of the bank account by adding deposits and subtracting the amount of the checks written. Screenland Magazine v National City Bank, 181 Misc 454, 42 NYS2d 286.

stud. A male horse, uncastrated, and kept for breeding purposes.

See **studding**.

stud book. A book kept by the owner of a stallion in which is entered the mares bred, with date of the service. A register of thoroughbred horses.

When a horse entered in the English Stud Book is exported, it is customary to send with it a document called an export certificate, issued by the keepers of the stud book, by means of which a foreign purchaser is enabled to register the horse in the stud book of his country. Halbronn v International Horse Agency & Exchange, High Court of Justice (Eng) [1903] 1 KB 270.

studding. A two-by-four or two-by-six piece of lumber, placed upright in a building, upon which the boards making up the sides of the building are nailed and to which the laths of the inside walls are attached.

studendum et orandum. See **ad studendum et orandum.**

student. A person in attendance at a college or university. One receiving instruction in a public or private school.

student driver. A person receiving instruction in the driving of an automobile, usually by letting him operate the vehicle under the direction of a person accompanying him.

student pilot. A person receiving instruction in the flying of aircraft.

students' union. An organization of the entire body of students at a college or university; a building maintained by such an organization for student activities.

stud horse. See **stud.**

stud poker. A variety of the game of poker, characterized by the fact that some of the cards in the hands are dealt face up.

study expense. A preliminary expense of a local improvement project, sometimes incurred without being followed by the construction of the improvement tentatively contemplated. 48 Am J1st Spec A § 53.

stuff gown. The gown worn by a barrister who has not attained the rank of queen's counsel.

stuffing ballot box. Illegal voting by inserting in the ballot box ballots marked by other than qualified and legal voters. *Ex parte Siebold*, 100 US 371, 25 L Ed 717, 720.

stultify. To plead one's own insanity or other want of capacity, in his own suit to set aside his own deed or other contract, or in an action against him to enforce the contract.

The ancient rule that a man shall not stultify himself is no longer law either in England or in the United States. See 2 Kent Comm 451.

stumpage. The sum by agreement to be paid an owner for trees standing (or lying) upon his land, the party purchasing being permitted to enter upon the land and to cut and remove them. The price paid for a license to cut.

Stumpage on lumber is somewhat of the nature of a percentage paid on copyright, or of a royalty for the use of a patent, or a duty paid on mineral productions. *Blood v Drummond*, 67 Me 476, 478.

stump measurement. The measurement of the trunk of a tree at the point where it would normally be cut for commercial purposes. Anno: 39 ALR 1316.

stuprum. The debauching or rape of a previously chaste woman.

sturgeon. See **fish royal.**

style of cause. The caption and heading of process and pleading.

style of firm. See **firm name and style.**

style of writ or process. The designation of the person or government from whom the command on the face of the writ appears to emanate; thus "The People of the State of Michigan to the Sheriff of the County of Wayne, Greeting." 42 Am J1st Proc § 9.

suability. See **suable; sue.**

suable. Being subject to suit, that is capable of being sued. Liable to be sued.

" 'Suable' and 'suability' are words not in common use, but they concisely, correctly convey the idea annexed to them." Chisholm v Georgia (US) 2 Dall 419, 470, 1 L Ed 440, 462.

suable cause. A cause of action; a matured cause of action.

suapte natura. In its own nature.

sua sponte. Upon his own responsibility; of his own motion.

See **own motion.**

sub. A prefix meaning under; subordinate to. A contraction of submarine.

subagent. A person employed by an agent to assist him in conducting the affairs of the principal. 3 Am J2d Agency § 7. The agent of an agent.

If his appointment is expressly or impliedly authorized, he becomes the agent of the principal. 3 Am J2d Agency § 149.

subagency. See **subagent.**

subbailment. A bailment by a bailee to a third person. A delegation by a bailee to a third person to whom he delivers the property involved in his undertaking.

Of course, the bailee cannot relieve himself of responsibility by subbailment, without the consent of or authorization, express or implied, by the original bailor. 8 Am J2d Bailm § 190.

sub bois. Underwood; underbrush.

sub colore juris. Under color of right.

sub colore officii. Under color of office.

sub conditione. On condition.

One of the three phrases by which, without more, a conditional estate may be created. It is the first one named by Littleton, and Coke says of it: "This is the most express and proper condition in deed, and therefore our author beginneth with it." Clapp v Wilder, 176 Mass 332, 57 NE 692.

subcontract. An undertaking employed chiefly in the building and construction field whereby one, who has assumed the status of a principal contractor by entering into a contract with an owner of premises

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or public body for the construction of a building or improvement for such owner or public body, enters into a contract with a third person, called a subcontractor, whereunder the latter undertakes to perform some part of the work which the principal

contractor has agreed to perform under his contract with the owner or public body or to furnish and supply materials needed in the performance of such contract. Anno: 112 ALR 824; 36 Am J1st Mech L§50.

subcontractor. A person who takes a portion of a contract from the principal contractor. Fox v Dunning, 129 Okla 228, 255 P 582. One who agrees under contract with a principal or original contractor to construct for him some part of the structure which the principal contractor has engaged to construct under his contract with an owner of premises or public body, or to furnish and supply materials needed for the performance of such contract. Anno: 112 ALR 824. A person whose relation to the principal contractor is substantially the same as to a part of the work as the latter's relation to the owner. 36 Am J1st Mech L § 51.

It is generally held that a person performing individual labor on a structure for the contractor is not a subcontractor. But it has been held that a laborer is in a sense a subcontractor, and he may fall within the statutory definition. 36 Am J1st Mech L § 51.

sub cura mariti. Under the care of the husband.

sub curia. Under the court; under the law.

sub disjunctione. In the disjunctive.

subdivide. To divide a tract of land into lots before developing or improving the tract. Gill v Saunders, 182 Ark 453, 31 SW2d 748.

subdivision. A land development; an area divided into building lots.

See **political subdivision; subdivide.**

subdivision bond. A bond issued by a township, county, or other political subdivision.

subfeudation. Same as **subinfeudation.**

subflow. See **underground stream.**

subfluvial. Beneath a river or stream.

subhastian. A sale subhastio.

See **subhastio.**

subhastio. At the foot of the spear.

In ancient Rome, military spoils were disposed of at the foot of the spear-subhastio-by auction, or increase. Balesh v Hot Springs, 173 Ark 661, 293 SW 14.

subinfeudation. The feudal system of land tenure according to which tenants under the king, who was styled the "lord paramount," rented out portions of their lands to persons inferior to them, becoming lords with respect to these inferior persons, new feudal relations being created with each grant. De Peyster v Michael, 6 NY 467. The carving out of small estates to tenants by inferior lords, to be held of themselves.

This practice under the feudal system grew until the superior lords observed that they were losing all their feudal profit of wardship, marriage, and escheat and it was first checked by Magna Charta, and later abrogated by the Statute of Quia Emptores. See 2 Bl Comm 91.

subirrigation. Irrigation by conducting water underground in porous pipes.

subjacent support. A right of an adjoining landowner. The support of the surface by the underlying strata of the earth, or the support of the upper floors of a building by the part below.

The surface, in this connection, means not merely the geometrical superficies without a thickness, but includes all above the subjacent stratum in question and therefore includes a higher stratum as well as the actual surface of the soil, and the owner of the higher stratum is entitled to the same rights as the actual surface owner. It has been held, however, that the word "surface," when used in this connection in a deed without a qualifying phrase, signifies only the superficial part of the land, and therefore one having such grant is entitled to subjacent support of the superficial part of his land only. 1 Am J2d Adj L § 77.

subject. A citizen. An inhabitant. A person domiciled in a country and enjoying the protection afforded by it under sovereign power. The Pizarro (US) 2 Wheat 227, 245, 4 L Ed 226, 231.

See **subject to**.

subjecting property to debts. See **execution sale; judicial sale; levy**.

subjecting to debts in inverse order of alienation. See **inverse order of alienation**.

subjective examination. A medical examination in which the physician obtains the information necessary to form a conclusion as to the condition of the patient from the facts as related to him by the patient. Reeder v Thompson, 120 Kan 722, 245 P 127.

subjective impossibility of performance. Impossibility of performance personal to the promisor, not inhering in the nature of the act to be performed. 17 Am J2d Contr § 415.

subjective standard of satisfaction. A matter of taste, fancy, or sensibility determining satisfaction with performance of a contract. Gerish v Herold, 82 NJL 605, 83 A 892.

subjective symptoms. Those symptoms which a physician learns from the expressions of the patient. Reeder v Thompson, 120 Kan 722, 245 P 127.

subjective test. See **subjective standard of satisfaction**.

subject matter of act. Same as **subject matter of statute**.

subject matter of action. See **jurisdiction of the subject matter; subject of the action**.

subject matter of contract. Property or services of a wide range, the reported cases indicating that almost every conceivable form of property or services has been involved. 17 Am J2d Contr § 14.

subject matter of statute. In general, the same as **subject of statute**.

If there is any difference between "subject of statute" and "subject matter of statute," it is in respect to the offices which they respectively perform, the word "subject" indicating the chief thing to which the statute relates, and "matter" the things which are secondary, subordinate, or incidental. 50 Am J1st Stat § 191.

subject of act. Same as **subject of statute**.

subject of bankruptcy. The subject of the relations between an insolvent, nonpaying, or fraudulent debtor and his creditors, extending to his and their relief. *Wright v Union Cent. Life Ins. Co.* 304 US 502, 82 L Ed 1490, 58 S Ct 1025, reh den 305 US 581, 80 L Ed 411, 56 S Ct 92.

subject of statute. The matter or thing forming the groundwork of the statute, the chief thing or matter to which it relates and with which it deals. The matter to which the statute in question relates and with which it deals, as distinguished from its object which is the aim or purpose of the enactment. 50 Am J1st Stat § 191.

As the word is employed in a constitutional provision requiring the subject of a statute to be expressed in its title, the word is used in a broad and extended sense, and is the thing forming the generic head of the matter submitted. It may include numerous minor subjects relating, germane to, and having a mutual connection with, the subject proper. See *Kemp v State*, 35 Okla Crim 128, 248 P 1116.

It is a very indefinite expression. A phrase may state the subject in a very general or indefinite manner, or with minute particularity. It is impossible to prescribe any standard of particularity for the legislature and the matter is left to legislative discretion. *State ex rel. Bragg v Rogers*, 107 Ala 444, 19 So 909.

See **single subject**.

subject of the action. The primary right of the plaintiff and a wrong in violation of such right, whereby a remedial right arises in his favor. *Studebaker Corp. v Hanson*, 24 Wyo 222, 157 P 582, 160 P 336. Not something relating to the thing itself about which the controversy has arisen, but rather the origin and ground of the plaintiff's right to recover or obtain the relief asked. *Collier v Ervin*, 3 Mont 142. Either the property which is sought to be recovered or alleged to be injured, or a substantive right which has been violated, to enforce or maintain which the action is brought. 20 Am J2d Council § 70.

subject to. Words of qualification. *Consolidated Coal Co. v Peers*, 166 Ill 361, 46 NE 1105. Words of qualification of the estate granted by a deed. 23 Am J2d Deeds § 217. Words of condition; sufficient to destroy the negotiability of the instrument where serving to subject the instrument to the terms of another agreement. 11 Am J2d B & N § 143. A phrase which, appearing in a contract, usually indicates that a promise is not to be performed except upon a condition or the happening of a stated event. *Jones v Palace Realty Co.* 226 NC 303, 37 SE2d 906. A phrase insufficient in itself to constitute the assumption of a mortgage. Anno: 101 ALR 284; 37 Am J1st Mtg § 998.

A provision in the assignment of a lease that it is "subject to" the agreements of the lessee contained in the lease does not constitute a contract obligating the assignee unqualifiedly to perform the duties imposed upon the lessee, so as to render him liable to reimburse the lessee, on account of rents which the lessee was compelled to pay and which accrued after the assignee resigned the term, as the words "subject to" are words of qualification and not words of contract. 32 Am J1st L & T § 350.

The words "subject to the terms of said lease" do not impose contractual liability on an assignee to a lessor to carry out the covenants of the lease. *Coles Trading Co. v Spiegel* (CA9 Ariz) 187 F2d 984, 24 ALR2d 702.

subject to final payment. A familiar condition in the banking business.

Where checks received by a bank from a depositor are credited to his account "subject to final payment," which provision is sometimes printed in the depositors' pass books as applying to out-of-town checks, the meaning of the provision is that if such a check is not paid upon its presentation to the drawee bank, the amount of it will be charged back to the depositor's account. See *Douglas v Federal Reserve Bank*, 271 US 489, 493, 70 L Ed 1051, 1053, 46 S Ct 554.

subject to restriction. A clause in a deed having reference to restrictions set forth in some other deed or instrument. 20 Am J2d Cov § 169.

subject to terms of. See **subject to**.

subject to the jurisdiction thereof. A phrase made familiar by inclusion in the Fourteenth Amendment.

As these words are used in the first section of the Fourteenth Amendment of the Federal Constitution, providing for the citizenship of all persons born or naturalized in the United States and subject to the jurisdiction thereof, the purpose would appear to have been to exclude by the fewest words (besides children of members of the Indian tribes, standing in a peculiar relation to the National Government, unknown to the common law), the two classes of cases, children born of alien enemies, in hostile occupation, and children of diplomatic representatives of a foreign state,-both of which, by the law of England and by our own law, from the time of the first settlement of the English colonies in America, had been recognized exceptions to the fundamental rule of citizenship by birth within the country. *United States v Wong Kim Ark*, 169 US 649, 682, 42 L Ed 890, 902, 18 S Ct 456.

sub judice. Before the court for its consideration and determination.

sub jugum matrimonii. Under the yoke of matrimony; the state of being married. *Macfarland v Heim*, 127 Mo 18.

Sublata causa tollitur effectus. By removing the cause, the effect is removed.

Sublata veneratione majistratum, respublica ruit. The state is ruined by the loss of respect for magistrates.

Sublato fundamento, cadit opus. With the removal of the foundation, the structure falls.

Sublato principali, tollitur adjunctum. By the removal of the principal thing, the adjunct is removed.

sublease. A grant by a lessee of an interest in the demised premises, or a part thereof, less than his own, a reversion remaining in him. 32 Am J1st L & T § 392.

Where the sublease is for the whole term, it is, in law, an assignment, as between the original lessor and the sublessee, but may be given effect as a contract, as between the sublessor and sublessee. *Davidson v Minnesota Loan & Trust Co.* 158 Minn 411, 197 NW 833, 32 ALR 1418.

See **underlease**.

sublessee. A tenant who holds under a lease made by a sublessor.

See **sublease**.

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sublessor. A lessee who has made a sublease. See **sublease**.

subletting. Making a sublease. 32 Am J1st L & T § 393.

See **sublease**.

sublimation. Refining or purifying. The elimination of unwanted matter from alcoholic beverages. *Commonwealth v Giltinan*, 64 Pa 100, 105.

submarine. A vessel which can operate both on the sea and when submerged therein. A vessel for the purpose of admiralty jurisdiction. *United States v Woodbury (CAI Mass)* 175 F2d 854.

submerged fen. A swamp or marsh covered with water for the time. *Webber v Pere Marquette Boom Co.* 62 Mich 626, 635.

submerged lands. Lands, particularly privately owned lands, covered by waters. Lands, once lying above water, since submerged. *Mulry v Norton*, 100 NE 426, 3 NE 581.

See **lands beneath navigable waters**.

Submerged Lands Act. A federal statute dealing with rights, titles, and interests in lands beneath navigable waters within state boundaries and Outer Continental Shelf Lands. 43 USC §§ 1301 et seq.

submergence. The disappearance of land under water and the formation of a navigable body of water over it, so that the submerged land is lost to the owner, except and until it be restored to him by reliction. *Mulry v Norton*, 100 NY 426, 3 NE 581.

See **subsidence**.

submission. A surrender or yielding, as to an arrest or a command. Referring a matter to another for consideration and decision, e.g., the act of the court in instructing the jury and sending them out to return a verdict.

See **final submission**.

submission agreement. See **agreement for submission**.

submission of controversy. The equivalent in some American jurisdictions of "agreed case." *New York Tel. Co. v Siegel-Cooper Co.* 202 NY 502, 96 NE 109.

submission to arbitration. Resort to arbitration for the settlement of a controversy.

See **agreement for submission; arbitration**.

submission to nonsuit. The act of the plaintiff in taking a voluntary nonsuit. *Hartquist v Tamiami Trail Tours*, 139 Fla 328, 190 So 533, 79 ALR 688.

submit. To be submissive. To make a submission.

See **submissive**.

sub modo. Subject to a modification or qualification; after a fashion; in some manner. See 2 Bl Comm 291.

subnormal intelligence. See **subnormal mentality**.

subnormal mentality. Weakness of intellect; deficiency in mental function. 21 Am J2d Crim L § 28. A possible defense to a criminal charge. *State v Roy*, 40 NM 397, 60 P2d 646, 110 ALR 1.

subordinate body. A local lodge or benefit society which owes allegiance to a state or national organization of the lodge or society. 36 Am J2d Frat O § 35.

subordinate fact. See **subsidiary fact**.

suborn. To engage in subornation.

See **subornation**.

subornation. The crime of procuring another person to commit a crime. The procurement of the commission of an unlawful act.

subornation of perjury. The crime of procuring another to commit perjury by inciting, instigating, or persuading. 41 Am J1st Perj § 74. In a proper sense, the equivalent of perjury itself. *United States v Silverman* (CA3 Pa) 106 F2d 750.

suborner. One who suborns.

See **subornation**.

subpartnership. A so-called partnership formed between a member of a partnership and a third person for a division of the profits coming to him from the partnership enterprise, by an agreement of such a character as to disclose the essentials necessary to a partnership between the partner and the third person.

Such third person does not become a member of the first partnership nor is he liable for its debts. 40 Am J1st Partn § 14.

subpoena. The ordinary process by which the attendance of a witness in court is compelled, being issued by the clerk of court. 58 Am J1st Witn § 13. A writ or process in equity, equivalent to a summons in an action at law, through which a party is subjected to the jurisdiction of the court. *Commercial Bank of Rodney v State*, 12 Miss (4 Smedes & M) 439, 515.

subpoena ad testificandum. A writ to bring a witness into court to testify; a subpoena for a witness. See 3 Bl Comm 369.

subpoena duces tecum. An ancient writ, having for its object the production of evidence to be used, so far as admissible, in a trial. In the modern sense, a subpoena which, in addition to the usual clauses requiring the attendance of the witness in court to testify, contains clauses directing him to produce at the same time for use as evidence in the litigation certain described books, papers, records, and documents. 58 Am J1st Witn §§ 20 et seq. A subpoena ordering the witness to bring with him the books, documents, or other evidence described in the subpoena. *Langenberg v Decker*, 131 Ind 471, 31 NE 190.

subpoena ticket. A ticket issued by a prosecuting attorney under which in some jurisdictions a witness is summoned to court to give his testimony in a criminal prosecution.

sub potestate. Under the protection.

sub potestate parentis. Under the protection of a parent. See 1 Bl Comm 465.

sub potestate viri. Under the control of her husband.

Generally, at common law a woman can do no act to bind herself; she is said to be sub potestate viri, and subject to his will and control. Her acts are not voidable, but are void ab initio. *Elliot v The Lessee of Peirsol (US)* 1 Pet 328, 339, 7 L Ed 164, 169.

subreption. The fraudulent securing of escheated property by concealment of the truth.

subrogation. The substitution of one person in the place of another with reference to a lawful claim or right against a third person. The principle that when one person has been compelled to pay a debt which ought to have been paid by another, he

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becomes entitled to exercise all the remedies which the creditor possessed against that other person. 50 Am J1st Subro § 2. Sometimes referred to as the doctrine of substitution.

It is a device adopted or invented by equity to compel the ultimate discharge of a debt or obligation by him who in good conscience ought to pay it. It is the machinery by which the equity of one man is worked out through the legal rights of another. 50 Am J1st Subro §§ 2 et seq.

This is a substitution of another person in place of the creditor to whose rights he succeeds in relation to the debt, and gives to the substitute all the rights, priorities, remedies, liens, and securities of the person for whom he is substituted. The principle of subrogation is broad enough to cover every instance in which one person is required to pay a debt for which another is primarily answerable, and which in equity and good conscience ought to be discharged by the latter. *United States Fidelity & G. Co. v Bramwell*, 108 Or 261, 217 P 332, 32 ALR 829.

See **conventional subrogation; legal subrogation.**

subrogation by contract. See **conventional subrogation.**

subrogation of cotenant. The principle that a cotenant who has paid off or satisfied a debt secured by a mortgage or lien on the common property is entitled to assert the rights of the mortgagee or lienholder and to enforce the mortgage or lien as against his cotenant or cotenants to the extent that they should contribute to the satisfaction of the mortgage or lien. 20 Am J2d Coten § 67.

subrogation of insurer. The right of an insurer on payment of a loss to be subrogated pro tanto to any right of action which the insured may have had against any third person whose wrongful act or neglect caused the loss insured against by the insurer. 29A Am J Rev ed Ins § 1719.

Subrogatum tenet locum subrogati. A subrogation takes the place of that which is subrogated.

The axiom should be understood as applicable, when the thing has been changed into something else by the owner, he having received the other thing in its place. *Place v Norwich & New York Transp. Co.* 118 US 468, 30 L Ed 134, 145, 6 S Ct 1150.

subrogee. A person who by subrogation acquires the rights of another person.

subrogor. One whose rights are acquired by another through subrogation.

sub rosa. Under the rose; secretly; privately; clandestinely.

sub salvo et securo conducto. Under safe and secure conduct.

subscribe. To sign. To sanction. To agree to take and pay for corporate stock on the issuance thereof or for a newspaper or magazine to be issued periodically. To agree to take and pay for, as for corporate stock on the issuance thereof or for a newspaper or magazine to be issued periodically. To lend support to a charitable, religious, educational, theatrical, musical, or recreational organization by agreeing to contribute certain amounts thereto. 50 Am J1st Subscr § 1.

subscribed. Signed. Signed at the end of the instrument. *Stone v Marvel*, 45 NH 481.

subscribed and sworn to before me. An expression which, followed by the date and signature of the officer administering the oath, constitutes the jurat of an affidavit. 3 Am J2d Affi § 16.

subscriber. One who has subscribed to something.

See **subscription to stock.**

subscribing witnesses. Attesting witnesses. 57 Am J1st Wills §§ 308 et seq.

subscription. A signature. A signature at the end of an instrument. 23 Am J2d Deeds § 24. The signing of one's name by way of giving sanction or effect to a document. 57 Am J1st Wills §§ 243, 336. An undertaking, either written or oral, to give or pay money or its equivalent, or to give property, in the furtherance and promotion of some object or undertaking, generally, an object or purpose for the promotion of which numerous persons are uniting their means and efforts. 50 Am J1st Subscr § 1. A promise in writing of a donation to a university or college. 15 Am J2d Colleges § 33. An application for a share or shares of a business trust. 13 Am J2d Bus Tr § 24.

subscription book. A record of the subscriptions made to an issue of corporate stock. 18 Am J2d Corp § 370.

subscription contract. A promise or undertaking to subscribe based upon a sufficient consideration, sometimes the promises of other subscribers. 50 Am J1st Subscr §§ 10 et seq.

See **subscription to stock.**

subscription to newspaper. An agreement to accept the numbers of a newspaper as they are issued and to pay therefor, either in one sum for a year or in lesser sums for periods of a year.

To become a subscriber for a newspaper includes some voluntary act on the part of the subscriber, or something which is in effect an assent by him to the use of his name as a subscriber. A person to whom a paper is sent without his knowledge or consent, either expressed or implied, is not a subscriber. *Ashton v Stoy*, 86 Iowa 197, 64 NW 804.

subscription to stock. An agreement to subscribe for or take stock to be issued by a corporation. 18 Am J2d Corp § 291.

The legislature may prescribe the manner and mode of creation of a subscription contract and declare what shall amount to such a contract or what shall be evidence that the party proposing to take stock has completed the contract on his part. 18 Am J2d Corp § 292.

See **call.**

subscribing witness. Same as **attesting witness.**

subsequent. Coming after, whether in time, place, or order.

subsequent condition. See **condition subsequent.**

subsequent creditor. One who becomes a creditor following a transaction by the debtor brought up for consideration, such as a conveyance made to defraud or delay creditors.

subsequent negligence. Negligence operating at the time an injury is sustained and as the cause thereof, as distinguished from negligence operating prior to the accident but in some degree connected therewith. Negligence which is the proximate, as distinguished from the remote, cause of an injury.

subsequent offender. See **habitual criminal.**

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Holwerson v St. Louis & Suburban Railway Co. 157 Mo 216, 57 SW 770.

subsequent purchaser. A purchaser under a later purchase of the same premises from the same grantor or one in the chain of record title running from such grantor.

While not including a purchaser from an apparent stranger to the title of the grantor in the unrecorded deed, the term does include not only the purchaser from the grantor himself, but every subsequent purchaser from one who appears from the records to be the owner of, or to be authorized to convey, the title and interest that the grantor had when he made a deed which has not been recorded. 45 Am J1st Recds § 149.

subsequent purchaser for value. See **bona fide purchaser.**

subsequent purchaser in good faith. See **bona fide purchaser.**

subservient possession. See **permissive possession.**

subsidence. The sinking of land, as where support has been removed by mining. Anno: 35 ALR 1137; 36 Am J1st Min & M § 184. A shifting, falling, slipping, seeping, or oozing of the soil from its natural position, caused by the removal of support. *Levi v Schwartz*, 201 Md 575, 95 A2d 322, 36 ALR2d 1241.

See **submerged lands; submergence.**

subsidiary. A corporation, all or the majority of the stock of which is owned by another corporation, so that the latter is in the relation to it of a parent corporation. A corporation which is controlled by another corporation by reason of the latter company's ownership of at least a majority of the shares of the capital stock. 18 Am J2d Corp § 17.

subsidiary corporation. See **subsidiary.**

subsidiary fact. A fact indeterminate of an issue in itself, although of some weight in the determination of the ultimate fact. *Baumgartner v United States*, 322 US 665, 88 L Ed 1525, 64 S Ct 1240.

subsidiary trust. A trust auxiliary to a business trust. *Beilin v Krenn & Dato*, 350 111 284, 183 NE 330.

subsidium. See **in subsidium.**

sub sigillo. Under seal. *State v Buchanan (Md)* 5 Harr & J 317.

sub silentio. Silently.

subsistence. A means of support. *Wall v Williams*, 93 NC 327. An allowance to an enlisted man of the armed forces for living expenses, made under certain circumstances. 36 Am J1st Mil § 34. An allowance for a defendant wife in an action for divorce, brought against her in a state other than that of her domicil, to cover her living expenses while in the state for the purpose of defending the suit. *State ex rel. Pearce v Superior Court*, 34 Wash 2d 768, 209 P2d 906.

subsistence allowance. See **subsistence.**

subsistence loans. See **production and subsistence loans.**

sub spe reconciliationis. In the hope of reconciliation.

substance. Essentials. The antithesis of "form." *State v Japone*, 202 Iowa 450, 455, 209 NW 468, 471.

substance of indictment. The essential allegations.

When an indictment is adjudged to be insufficient in substance, it is because it lacks something essential to make a legal charge of crime. Certain portions of an indictment are formal and some substantial. The statement or body of the indictment must set forth all the ingredients of the offense, and charge the defendant directly and positively with the commission of it. This is the substance of the charge, because essential to it. *State v Burgdoerfer*, 107 Mo 1, 17 SW 646.

substance over form. A determination of the effect of a transaction according to the substance of the matter rather than the particular form or label adopted in designating it. *Re Smiley*, 35 Wash 2d 863, 216 P2d 212.

substantial adverse claim. A claim which is real and actual, as distinguished from one which is merely colorable. A claim disclosing a contested matter of right involving at least a fair doubt and reasonable room for controversy in matters of law or

fact. *Harrison v Chamberlin*, 271 US 191, 70 L Ed 897, 46 S Ct 467 (claim sufficient to deprive court of bankruptcy of constructive possession of property).

substantial breach. Same as **material breach**.

substantial claim. See **substantial adverse claim**.

substantial compliance. See **substantial performance**.

substantial consummation of reorganization plan. The occurrence of each of the following events:(1) transfer, sale, or other disposition of all or substantially all of the property dealt with by the plan pursuant to the provisions of the plan; (2) assumption of operation of the business and management of all or substantially all of the property dealt with by the plan by the debtor or by the corporation used for the purpose of carrying out the plan: and (3) commencement of the distribution to creditors and stockholders, affected by the plan, of the cash and securities specified in the plan. Bankruptcy Act § 229(a); 11 USC § 629(a).

substantial destruction. As a condition relieving a tenant from liability for rent:an effective destruction of the building so complete that the building is untenable and restoration will amount in effect to the construction of a new building. 32 Am J1st L & T § 506.

substantial error. An error which upon the trial works harm and from which a party sustains substantial injury. *People v Perlman*, 128 Misc 68, 71, 217 NYS 662, 665. An error of the trial court which operates in the impairment of a substantial right of the accused. 5 Am J2d A & E § 778.

substantial evidence. Evidence beyond a scintilla; evidence affording a substantial basis of fact from which the fact in issue can reasonably be inferred. 31 Am J Rev ed Lab § 338. Such relevant evidence as a reasonable man would accept as adequate to support the conclusion sought to be drawn from it. Anno: 123 ALR 647; 83 L Ed 691. Such evidence as will convince reasonable men and on which such men may not reasonably differ as to whether it establishes a case or defense. *Morton v Mooney*, 97 Mont 1, 33 P2d 262.

Substantial evidence means more than a mere scintilla. It is of substantial and relevant consequence and excludes vague, uncertain, or irrelevant matter. It implies a quality of proof which induces conviction and makes an impression on reason. It means that one weighing the evidence takes into consideration the facts presented to him and all reasonable inferences, deductions and conclusions

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to be drawn therefrom and, considering them in their entirety and relation to each other, arrives at a fixed conviction. *NLRB v Union Pacific Stages* (CA9) 99 F2d 153.

substantial evidence rule. The rule that a determination of fact by an administrative body should be upheld unless arbitrary or clearly wrong; that a ruling based on findings supported by substantial evidence shall be sustained unless they rest on erroneous legal foundations. *NLRB v Babcock & Wilcox Co.* 351 US 105, 100 L Ed 975, 76 S Ct 679.

substantialibus. See **in substantialibus**.

substantial justice rule. The rule that a judgment shall not be reversed if it appears that there has been no error in reference to substantive principles, that substantial justice has been done, and that such error as occurred in the lower court was technical. *West v State*, 24 Ariz 237, 208 P 412.

substantially. In the main. Essentially.

substantially as set forth. Words of reference to another document. Sufficient in a claim of a patent to import into the claim the particulars of the specifications. *Westinghouse v Boyden Power Brake Co.* 170 US 537, 42 L Ed 1136, 18 S Ct 707.

These words in the claim of a patent, do not limit the patentee to the exact mechanism described in his specifications, or prevent recovery against infringers who have adopted mechanical equivalents for such mechanism. 40 Am J1st Pat § 93.

substantially prevailing party. The party entitled to costs on appeal where the judgment of the lower court is affirmed in part and reversed in part. 5 Am J2d A & E § 1014.

substantially reversed. A modification on appeal so inclusive of the whole judgment that there is an entire rather than a partial reversal. 5 Am J2d A & E § 1032.

substantial performance. Performance of a contract which, while not a full performance, is performance in good faith, and in compliance with the contract except perhaps for minor and relatively unimportant deviations. 17 Am J2d Contr § 378. Performance of all the essentials necessary to the full accomplishment of the purposes of the contract. 13 Am J2d Bldg Contr § 43. Performance short of full performance but sufficient to substantiate a recovery of the contract price less a deduction for want of completion of the work. 58 Am J1st W & L § 52. Such an approximation to complete performance of a building contract that the owner obtains substantially what was called for by the contract, although it may not be the same in every particular, and although there may be omissions and imperfections on account of which there should be a deduction from the contract price. *Handy v Bliss*, 204 Mass 513, 90 NE 864. In one sense, full performance according to the fair intent of the contract. In another sense, performance distinctly short of full performance. 46 Am J1st Sales § 213.

substantial performance doctrine. The principle that where there has been a breach of one of several promises, the question whether there has been a failure of consideration, a complete failure or a partial failure, is determined according to whether or not there has been a substantial performance of the contract. 11 Am J2d B & N § 244.

See **substantial performance.**

substantial possession. Actual possession in the sense of actual occupancy of the entire tract under consideration. *Wheeler v Clark*, 114 Tenn 117, 85 SW 258.

substantial right. An essential, as distinguished from a technical, right. *Sullivan v Storz*, 156 Neb 177, 55 NW2d 499, 34 ALR2d 1142. That which concerns the subject matter of the action or proceeding.

The fact that a matter is discretionary does not prevent it from being a matter affecting a substantial right. *Re Engbretson*, 68 SD 255, 1 NW2d 351, 142 ALR 1454.

substantive due process. Freedom from arbitrary action coupled with the equal operation of the laws. 16 Am J2d Const L § 550.

substantive law. That part of the law which creates, defines, and regulates rights, as distinguished from the part which prescribes the remedies and the procedure for the enforcement of rights. *Hardie v Bryson* (DC Mo) 44 F Supp 67; *Mix v Board of County Comrs.* 18 Idaho 695, 112 P 215.

A statute or other rule of law will be characterized as substantive or procedural according to the nature of the problem for which a characterization must be made. *Grant v McAuliffe*, 41 Cal 2d 859, 264 P2d 944, 42 ALR2d 1162.

substitute. One who, or that which, stands in the place of another; that which stands in lieu of something else. *State v Fargo Bottling Works Co.* 19 ND 396, 124 NW 387. (Civil law.) A person to whom an "institute" appointed by will is by the will directed to transfer property which is by the will devised to him.

See **institute; substituted.**

substitute bill of lading. A bill of lading issued in place of a bill which has been lost, stolen, or destroyed. 13 Am J2d Car § 421.

substituted. One person or one thing acting, serving, or occupying the place of another.

The word describes a replacement of one thing by another and, in most of its ordinary uses, implies the removal or elimination of the thing replaced. But this definition is not reliable when one is dealing with legal relations as when concrete objects are in mind. For example, we have the common case of a substituted trustee, in which the original trustee ceases to act and have the powers of a trustee, but he continues to be liable as a trustee for his acts while in office. *Fidelity-Philadelphia Trust Co. v Hale & Kilburn Corporation* (DC Pa) 24 F Supp 3.

substituted administrator. See **administrator de bonis non.**

substituted automobile. See **substituted vehicle.**

substituted bequest. See **substitution by will.**

substituted executor. See **substitutionary executor.**

substituted legacy. See **substitution by will.**

substituted party. See **substitution of parties.**

substituted service. Service of process by leaving a copy of the summons or writ with a suitable person at the residence, dwelling house, or place of abode of the party to be served. 42 Am J1st Proc § 60. In some jurisdictions, the equivalent of actual or personal service. *Grant v Lawrence*, 37 Utah 540, 108 P 931. A term applied in some jurisdictions to service by mail or service by publication.

substituted shipment. A substitution of goods for the goods specified in a bill of lading. 13 Am J2d Car § 373.

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substituted tax return. The replacement of one income tax return by another as a matter of right of the taxpayer within the period allowed by statute for filing returns or within such extended time as the commissioner may grant under the statute. *J. E. Riley Invest. Co. v Commissioner* (CA9) 110 F2d 655.

substituted trustee. A trustee who, when appointed, steps into the place of the old trustee charged with the trust, and with all the powers and duties of the old trustee. 54 Am J1st Trusts § 133.

Although the original trustee ceases to act and have the powers of a trustee, he continues to be liable as a trustee for his acts while in office. *Fidelity-Philadelphia Trust Co. v Hale & Filburn Corp.* (DC Pa) 24 F Supp 3.

substituted vehicle. A familiar term in the field of automobile insurance; a vehicle temporarily used by the insured, where the automobile described in the policy is withdrawn from use because of breakdown, repair, servicing, loss, or destruction. 7 Am J2d Auto Ins § 103.

substitute judge. A judge selected to act in the absence, disability, or disqualification of the regular judge, or under other circumstances, as provided by constitution or statute. 30A Am J Rev ed Judges § 237.

substitute juror. See **alternate juror.**

substitute paper. An instrument for the payment of money given by way of substitution for a lost, destroyed, or mutilated instrument, of the same tenor. 11 Am J2d B & N § 59.

See **substitute bill of lading.**

substitution. Putting one person or one thing in the place of another. Subrogation.

As the term is used in the law of wills, to create a substitution is to bequeath property to one or more persons, to be succeeded in the enjoyment thereof by others designated by the testator. Succession of Meunier, 52 La Ann 79, 26 So 776.

See **subrogation; substitution by will.**

substitutional gift. See **substitution by will.**

substitutional remainders. See **alternative remainders.** 28 Am J2d Est § 216.

substitutionary bequest. See **substitution by will.**

substitutionary executor. A person nominated by a will to act as executor in the event of the death, inability, or refusal to act, of the person first named. Edwards' Estate (Pa) 12 Phila 85.

substitution by will. The effect of a clause in a will whereby the testator provides for the replacement of the beneficiary of a particular bequest by another person, or the replacement of a bequest to a designated beneficiary by another bequest to or in favor of the same beneficiary, under circumstances set forth in the clause. 57 Am J1st Wills § 1181. A gift over, that is, a gift to a charity to take effect in the event a designated gift does not take effect. Re Harrington's Estate, 151 Neb 81, 36 NW2d 577. A gift by later will or codicil in substitution for a gift made to the same beneficiary by the original will. Anno: 37 ALR2d 17, 48.

A testamentary gift is substitutional where the testator provides that someone shall take it in event of the death of the original beneficiary before the period of distribution. One taking by substitution can take only under the terms of the will, subject to the same conditions as are attached to the gift. Re Waring, 293 NY 186, 56 NE2d 543, 157 ALR 1101.

substitution clause in policy. A provision in an automobile liability policy whereby coverage is extended to the use of an automobile driven by the insured by way of substitution for the vehicle designated in the policy of insurance. 7 Am J2d Auto Ins § 103.

substitution clause in will. See **substitution by will.**

substitution doctrine. Another term for subrogation. 50 Am J1st Subro § 2.

substitution of attorney. The change made by a party in his attorney of record in a pending case, such substitution of one attorney for another being a matter of right, except where the original attorney has an interest in the subject matter of the suit, and accomplished under accepted procedure by an order of substitution obtained on motion. 7 Am J2d Attys § 148.

substitution of debtor. A novation. 39 Am J1st Nov § 13.

See **imperfect delegation.**

substitution of parties. A change of parties by the substitution of a new plaintiff or defendant for the original plaintiff or defendant, accomplished by an amendment of the pleading and process as permitted by an order of court, such order being granted only where a new cause of action is not introduced by the amendment. 39 Am J1st Parties § 98. The revival of an action upon the death of a party by the personal representative, heir, or devisee. 1 Am J2d Abat & R §§ 120 et seq. A novation by the substitution of a new debtor for an old one. 39 Am J1st Nov § 13.

A substitute defendant in the true sense of the term is one who takes the place of another defendant in the same suit or controversy, not one who is sued upon an entirely different cause of action. *McCann v Bentley Stores Corp.* (DC Mo) 34 F Supp 231.

sub suo periculo. At his own risk.

subsurface entry. An entry upon land made below the surface thereof, for example, by excavation in the course of mining. 52 Am J1st Tresp § 14.

subsurface use. The use of space below a highway by abutting owners for private purposes. 25 Am J1st High § 198.

subtenant. The lessee under a sublease. A person who rents all or a portion of leased premises from the lessee for a term less than the original one, leaving a reversionary interest in the first lessee. 32 Am J1st L & T § 392.

subterfuge. Something resorted to for concealment. *Foster-Fountain Packing Co. v Haydel*, 278 US 1, 73 L Ed 147, 49 S Ct 1. A plan or scheme to escape or avoid responsibility for one's acts.

subterranean stream. A definite and known channel in which subterranean waters flow. 56 Am J1st Water § 103. Underground waters flowing in a distinct, well-defined and permanent channel, as distinguished from percolating waters which spread in every direction through the earth. *Tampa Waterworks Co. v Cline*, 33 Fla 586, 20 So 780.

subterranean waters. Underground bodies or streams of water flowing in

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known and defined or ascertainable channels or courses and waters which ooze, seep, or percolate through the earth or flow in unknown or undefined channels. 56 Am J1st Water § 102.

subtraction. The process of taking one number from a larger number to find the difference. The neglect to perform a suit, duty, custom, or service which a person owes to another.

It was a wrong which had chiefly to do with those duties and services, arising out of land tenure, which a tenant owed his landlord, and included the duty or service of paying rent. See 3 Bl Comm 230.

suburb. A township, village, or other municipality adjacent to a city, having an identity because of the number of residents or the business or industrial operations therein conducted.

subversion. Subversive activities.

See **subversive**.

subversive. Noun: One who seeks to undermine and overthrow established authority of the government. An organization that teaches and advocates the overthrow of government by force or violence. *Adler v Board of Education*, 342 US 485, 96 L Ed 517, 72 S Ct 380, 27 ALR2d 472. Adjective: Undermining the foundation of government.

Mere personal abstention from violence, or even from violent language, does not secure immunity from deportation as a subversive alien, if the result of the gentlest and most guarded speech is to advocate or teach that subversion which is condemned by statute. The "philosophic" anarchist is an anarchist nevertheless. *United States ex rel. Georgian v Uhl* (CA2 NY) 271 F 676, cert den 256 US 701, 65 L Ed 1178, 41 S Ct 623.

See **sedition; treason**.

subversive alien. See **subversive**.

sub voce. Under the word or title.

subway. An underground way or passage. A means of public transportation below the surface of the street, particularly an underground electric railway or bus line. 25 Am J1st High § 200.

successful party. See **prevailing party.**

succession. Following another; succeeding to the rights of another, as where a new corporation which is a reorganization of another corporation takes the rights of the old corporation. 19 Am J2d Corp § 1524. The passing of property in possession or enjoyment, present or future, and dispositions of property by will, deed, or laws of descent, by reason whereof any person shall become entitled in possession or expectancy to property upon the death of any other person. *Wright v Blakeslee*, 101 US 174, 25 L Ed 1048.

The word is one of technical meaning in the law and signifies the taking of property by inheritance or will from the estate of a decedent, or by operation of law; and it is a word which clearly excludes those who take by deed, grant, gift, or any form of purchase or contract. *Quarles v Clayton*, 87 Tenn 308, 10 SW 505.

See **descent; hereditary succession; intestate succession; perpetual succession; universal succession.**

succession ab intestato. (Civil law.) The descent or inheritance of property from one who has died without leaving a will. See 2 Bl Comm 490.

succession duty. A succession tax.

Successionis feudi talis est natura, quod ascendentes non succedunt. The nature of feudal succession is such that persons in the ascending line do not inherit. See 2 Bl Comm 211.

succession tax. An excise on the privilege of taking property by will, inheritance, or succession in any other form, upon the death of the owner. A tax upon the right to receive property from the estate of the decedent. *McLaughlin v Green*, 136 Conn 138, 69 A2d 289, 15 ALR2d 1210; *Chase v Commissioner of Taxation*, 226 Minn 521, 33 NW2d 706, 6 ALR2d 214. A tax imposed upon a legacy, devise, or distributive share of the estate of a decedent, not upon the estate. *Re Rath*, 10 Cal 2d 399, 75 P2d 509, 115 ALR 836; *Re Daniels' Estate*, 159 Ohio St 109, 50 Ohio Ops 79, 111 NE2d 252. Sometimes used loosely as inclusive of an estate tax on the theory that it is a duty or tax upon the transmission of a decedent's property, that is, his whole estate.

succession words. See **words of inheritance.**

successive. In succession; following in a regular sequence.

A grant of the right to "successive renewals" of a lease does not grant a right to renew indefinitely, since the word "successive" imports concatenation, and not duration. *Geyer v Lietzan*, 230 Ind 404, 103 NE2d 199, 31 ALR2d 601.

successive assignees. Persons who have acquired the same claim by a succession of assignments, one assignee assigning to another, the latter to still another, etc. Persons who have in succession acquired the same claim from the same assignor. 6 Am J2d Assign § 113. Two assignees for the benefit of creditors, one being appointed upon the death, disability, or removal from office of the other. 6 Am J2d Assign for Crs § 92.

successive disabilities. One personal disability succeeded by another, as where mental incompetency follows infancy. 34 Am J1st Lim Ac § 210. Disabilities of different persons where an estate passes by descent, devise, or purchase from one person under disability to another person under disability. 34 Am J1st Lim Ac § 211.

successive indictments. See **reindictment**.

successive renewals. See **successive**.

successive transactions. See **repeated transactions**.

successive trespasses. See **repeated trespasses**.

successor. One who assumes a public office upon expiration of term, retirement, resignation, or removal of a prior incumbent. One who follows another, as an heir follows the ancestor. One who follows another in interest. Inclusive of an executor. *West Shore R. Co. v Wenner*, 70 NJL 233, 57 A 508, reaffirmed 71 NJL 682, 60 A 1134.

A corporation may be considered the "successor" of another, although both corporations retain their corporate identity, dependent upon the facts and surrounding circumstances, and this status may exist in the absence of either an amalgamation, merger, or technical consolidation. *North Texas Nat. Bank v Thompson* (Tex Civ App) 23 SW2d 494.

See **hereditary successor; representative**.

successors. A term in a contract indicating assignability. 6 Am J2d Assign § 10.

The use of the word in an order of the National Labor Relations Board has been upheld by the United States Supreme Court, although the court

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has indicated that the liability of such a successor in regard to carrying out a board order is dependent more on the nature of the transaction between the parties than on the wording of the order. *Regal Knitwear Co. v NLRB*, 324 US 9, 89 L Ed 661, 65 S Ct 478, affg (CA2) 140 F2d 746.

See **successor**.

successors and assigns. Words of limitation in a deed to a corporation.

successors in interest. Successive owners.

As used in a statute affecting transfers of property with intent to defraud creditors and making such transfers void as against all creditors and their "successors in interest," the term was held to include the assignees of such creditors. *Windhaus v Bootz*, 3 Cal 351, 25 P 404.

successor trustee. Same as **substitute trustee**.

Succurritur minori; facilis est lapsus juventutis. A minor should be favored; youth errs easily.

sucesión legitima. (Spanish.) Lawful issue. *Ortiz De Rodriguez v Vivoni*, 201 US 371, 376, 50 L Ed 792, 794, 26 S Ct 475.

suction. A sucking force. Displacement waves sometimes caused by large and powerful vessels when they are propelled at a high rate of speed.

The liability of the vessel and her owner for damage resulting to other properly handled craft from this source, is well settled. See 48 Am J1st Ship § 280.

sudden. Hasty. Unforeseen; unexpected.

sudden anger. See **sudden passion**.

sudden emergency. An occurrence fraught with danger which is unexpected and occurs so abruptly as to be unnoticed before the peril is presented. *Booth v Price*, 183 Ark 975, 39 SW2d 717, 76 ALR 957.

sudden emergency doctrine. The principal of the law of negligence that one placed in a position of sudden emergency or peril other than by his own negligence may be held free from negligence or contributory negligence, although he would be charged with negligence if he had been given sufficient time for thought and reflection. 38 Am J1st Negl § 41.

suddenly. Happening without previous notice, or with very brief notice coming unexpectedly; rapid and unforeseen; hastily prepared, employed, made, or done; unexpected, unusual, abrupt; unlocked for. Anno: 122 ALR 840.

sudden passion. Characteristically .of sudden development.

In the definition of manslaughter as homicide committed without premeditation but under the influence of "sudden passion," the words mean any intense and vehement emotional excitement of the kind prompting to violent and aggressive action, as rage, anger, hatred, furious resentment or terror. *State v Linville*, 148 Kan 142, 79 P2d 869.

sudden peril. See **sudden emergency**.

sue. To prosecute; to make legal claim; to seek for in law.

The word appears to be properly applicable to civil actions and suits and to criminal prosecutions as well. Bacon says, "An indictment is defined as an accusation at the suit of the king." See *United States v Moore* (CC NH) 11 F 248, 251.

See **covenant not to sue; put in suit**.

sue and labor clause. Same as **rescue clause**.

sue out. To obtain writ, process, or order of court upon an application therefor. Anno: 27 ALR2d 267.

Process is "sued out" when it has been issued and delivered to a person qualified and authorized to serve it. *Maddox v Humphries*, 30 Tex 494, 497.

suertes. A term found in Spanish-American grants, meaning plots of ground within the limits of a city, pueblo, or town, for sowing grounds, of a larger size than "solares," for cultivating or planting, as gardens, vineyards, orchards, etc. *Hart v Burnett*, 15 Cal 530, 555.

sue upon. See **sue; put in suit**.

suffer. To feel or endure mental or physical pain or distress. To endure. To authorize or permit by approval or acquiescence in an act or course of conduct. *New York Life Ins. Co. v Calhoun* (CA8 Mo) 97 F2d 896.

To suffer implies not merely nonresistance to that which is done, but also an approval of, or at least an acquiescence in, it with an ability to prevent it. *Purinton v Jamrock*, 195 Mass 187, 80 NE 802.

sufferance. Endurance of pain or distress, physical or mental. Toleration; acquiescence.

See **bill of sufferance; estate by sufferance; tenancy at sufferance**.

suffer a nonsuit. To be subjected to a nonsuit. Having one's case taken out of court by an order of court. 24 Am J2d Dism § 72; 34 Am J1st Lim Ac § 282.

suffering. Physical pain; mental anguish.

There is no adequate definition of pain; the best that can be done is to describe a reaction to pain. This reaction is the body's awareness of unpleasant changes or activities that call attention to a particular region of the body. Pain is thus a protopathic sensation located in the nervous system. Recognition of the possible danger resulting from this sensation is "suffering," as distinguished from the initial and continuing pain. Sometimes courts refer to this type of pain and suffering as physical pain and suffering. 22 Am J2d Damg § 105.

The word "suffering" in a policy of insurance on an animal against destruction "necessary in order to immediately relieve incurable suffering" means conscious pain, so acute as to demand action without delay in order to put the animal out of its misery. *Abraham v Insurance Co. of N. A.* 117 Vt 75, 84 A2d 670, 29 ALR2d 783.

suffering a prisoner to escape. A criminal offense, sometimes a basis of civil liability, on the part of the custodian of a prison in voluntarily permitting a prisoner to escape. 27 Am J2d Escape § 21.

suffer to run at large. Intentionally or negligently permitting one's animals to stray from one's premises upon the premises of others or the highway. *Serr v Biwabik Concrete Aggregate Co.* 202 Minn 165, 278 NW 355, 117 ALR 1019.

sufficient. Adequate. So much as is needed. Equal to the purpose proposed. *Pensacola & Atlantic Railroad Co. v State*, 25 Fla 310, 5 So 833.

sufficient bail. See **sufficient sureties.**

sufficient consideration. That which is actually given, suffered, or accepted for a promise, whether slight or significant, and whether reducible or not to a pecuniary value, provided it is a present consideration or within one of the judicial or statutory

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exceptions to the requirement of a present consideration. 17 Am J2d Contr § 92.

sufficient deed. See **good and sufficient deed.**

sufficient description. That description which will enable third persons, aided by inquiries which the instrument itself indicates and directs, to identify the property. *Sandwich Mfg. Co. v Robinson*, 83 Iowa 567, 49 NW 1031 (requisite of description of mortgaged property in a chattel mortgage).

sufficient evidence. Abstractly, evidence of such probative value as to support the verdict of the jury or a finding of fact by the court. Practically, evidence such as will satisfy an unprejudiced mind of the truth of that which the court or jury has found to be the fact. *Re Cruson*, 189 Or 537, 221 P2d 892, 20 ALR2d 219.

Where a statute provides that the schedule of rates fixed by the commissioners shall be "sufficient" evidence that the rates thus fixed were just and reasonable, the word "sufficient" does not mean "conclusive." *Pensacola & Atlantic Railroad Co. v State*, 25 Fla 310, 5 So 833.

sufficient fence. Nothing less than a fence which meets the requirements of the law or the agreement of the parties in respect of its character. 22 Am J2d Fen § 23.

sufficient possession. As the basis of an action of forcible entry and detainer in case of dispossession:—an actual, quiet, and peaceable possession. *Schwinn v Perkins*, 79 NJL 515, 78 A 19. To support a claim of adverse possession:— possession, under a claim of right or title, for the whole period prescribed by the statute, which is actual, open, visible, notorious; continuous, and hostile to the true owner's title and to the world at large. 3 Am J2d Adv P § 6.

sufficient provocation. See **reasonable provocation.**

sufficient sureties. Sureties on a bail bond of financial ability to respond in payment of the amount of the bond and of sufficient vigilance to secure the appearance and prevent the absconding of the accused. 8 Am J2d Bail § 82.

suffix. Something added to a word to give a distinctive meaning. A word or abbreviation following a name, such as "Sr." 38 Am J1st Name § 9.

suffocation. See **asphyxiation.**

suffragan. An assistant bishop.

suffrage. The right to vote; a political right or privilege as distinguished from a civil right, property right, or right of person. A conventional right, subject to regulation by the legislature to any extent not prohibited by the express or implied provisions of state or federal constitutions; a right which does not exist except as granted by the constitution and laws enacted pursuant thereto. 25 Am J2d Elect § 53. A privilege rather than a right, being dependent upon public policy as expressed in constitution or statute. *Chamberlin v Wood*, 15 SD 216, 88 NW 109.

sugar bounty. A bounty provided for in 1890 by act of Congress on the production of all kinds of sugar in the United States.

After the sugar producers, in reliance upon the act, had made extensive and costly preparations, by enlarging their plants, to profit by the bounty, Congress, believing the legislation to be unconstitutional, as it probably was, repealed it. A later act of Congress, in 1895, provided for financial relief of those who had suffered by the repeal of the act of 1890, and this later act was upheld by the Supreme Court. *United States v Realty Co.* 163 US 427, 41 L Ed 215, 16 S Ct 1120.

Sugar Trust. See **trust.**

suggest. To bring an idea to the attention of another for consideration. A word which may or may not be precatory, depending upon the context in which it appears and the circumstances under which it occurs.

Where the word is used in a will, without any qualifying or explanatory words or circumstances to affect its ordinary meaning, it has been held merely to place a matter before another for consideration, and, under ordinary circumstances, in no wise to carry with it an expression of desire, will or entreaty. When so used, it is not a precatory word and is insufficient to create a trust. *Williams v Baptist Church of Baltimore*, 92 Md 497, 48 A 930.

suggested price. A retail price suggested or recommended to a dealer by the producer or manufacturer. 52 Am J1st Tradem § 185.

suggestio falsi. A suggestion of that which is false or untrue; a misrepresentation. 37 Am J2d Fraud § 144.

suggestion award. An award made by a corporation or other business enterprise to an employee for a suggestion respecting possible new products, improvement of product, saving in cost of production, etc.

suggestion of death. Calling the death of a party to the attention of a court and making it a matter of record, such being a step in the revival of an action abated by the death of a party. 1 Am J2d Abat & R § 118.

suggestive matters. Matters relative to the issue, whether preceding or following the commission of a civil wrong or criminal act. 29 Am J2d Ev §§ 270 et seq.

suicide. Death by one's own hand intentionally inflicted against himself. 29A Am J Rev ed Ins § 1145.

By statute in Missouri, "every person deliberately assisting another in the commission of self-murder shall be deemed guilty of manslaughter in the first degree." *State v Webb*, 216 Mo 378, 115 SW 998.

By the early common law of England, suicide was ranked as an infamous crime and was held to be a "species of felony" punishable by a forfeiture to the king of the goods and chattels of the *felo de se*, and an ignominious burial in the highway with a stake driven through his body. Suicide has never been classed as a crime in the United States but there are cases holding attempted suicide to be an offense, even in the absence of statute. 26 Am J1st Homi §§ 84-86.

suicide pact. A mutual agreement to commit suicide. 26 Am J1st Homi § 85.

suicide, sane or insane. See **sane or insane clause**.

sui generis. Of its own kind, peculiar, for example, a statutory proceeding for declaratory judgment, neither legal nor equitable. *Moss v Moss*, 20 Cal 2d 640, 128 P2d 526, 141 ALR 1422.

sui juris. Of full capacity. In his own right; capable of entering into a contract. See 1 Bl Comm 443.

For definition of the term as it pertains to contributory negligence of children see Anno: 107 ALR 161.

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suit. An action; a legal proceeding of a civil kind. *Re Oliver*, 77 Ohio St 474, 83 NE 795. Any proceeding in a court of justice by which a person pursues therein that remedy which the law affords him. *Upshot County v Rich*, 135 US 467, 34 L Ed 196, 10 S Ct 651. A term broader than "action," since it is inclusive of all judicial proceedings whether actions or not. 1 Am J2d Actions § 4. Not inclusive of a proceeding in continuation of an original action, such as a proceeding for modification of a decree. Anno: 143 ALR 414. Not inclusive of a criminal prosecution. Anno: 40 ALR2d 1397. Inclusive of a criminal prosecution, since an indictment or information is an accusation at the "suit" of the sovereign. *United States v Moore* (CC NH) 11 F 248, 251.

"It must be conceded that the word, as applied to legal controversies, both by the legal profession and others, is now used and recognized as a generic term of broad significance, often understood and used, even by legislatures and courts, to designate almost any proceeding in a court, even, though rarely, being applied to a criminal prosecution in certain connections." *Patterson v Standard Acci. Ins. Co.* 178 Mich 288, 144 NW 491.

Historically, "action" is more properly applied to a legal remedy only, whereas "suit" is more properly applied to an equitable remedy only, but this distinction is no longer regarded as important. 1 Am J2d Actions § 4.

To do suit was a feudal service of the tenant to follow the lord in his courts in time of peace and in his armies or warlike retinue in time of warfare. See 2 Bl Comm 54.

For particular suits, see definitions commencing **actio**; **action**.

suitable monument. See **monument**.

suitable watch. See **constant watch**.

suit against the state. See **action against the state**.

suit at common law. See **action at common law**.

suitcase. A fiat traveling bag.

See **baggage**.

suit club. A scheme devised for the distribution of clothes by chance; a form of lottery. 34 Am J1st Lot § 13.

suit for discovery. A bill wherein the only relief sought is a discovery, no demand being made for the recovery of damages or the accomplishment of anything other than a disclosure by the defendant. 23 Am J2d Dep § 141.

suit for partition. See **action in partition.**

suit in condemnation. See **eminent domain.**

suit in equity. An action in equity. A suit prosecuted and tried in accordance with the modes of procedure known to courts of equity. 27 Am J2d Equity § 177.

Under modern statutes in most jurisdictions, an action in equity is an ordinary civil action. It is still important, however to determine whether the case is one at law or in equity, since the character of the case may determine such matters as the method of review, the right to a jury trial, etc. 1 Am J2d Actions § 7.

An action involving an alleged infringement of trademark and seeking an injunction against the defendants and an accounting of their profits is in the nature of an old action in equity, and, as such, is triable before a court without a jury. *Folmer Grafiex Corp. v Graphic Photo Service* (DC NY) 41 F 319.

suit money. The money necessary to enable a married woman to carry on or defend a matrimonial action. *Rubin v Rubin*, 233 Md 118, 195 A2d 696, 99 ALR2d 256.

suit of a civil nature. Any action or suit traditionally cognizable by courts of law or equity, not involving criminal prosecution or punishment for crime. *Milwaukee County v White Co.* 296 US 268, 80 L Ed 220, 56 S Ct 229. A proceeding in a court of justice by which a person pursues a remedy afforded him for the redress of a private wrong, as distinguished from a criminal prosecution. *Milwaukee County v M. E. White Co.* 296 US 268, 80 L Ed 220, 56 S Ct 229.

suit of local nature. See **action of a local nature.**

suitor. A litigant; a party to an action or suit.

suitors' fund. A fund in the English chancery court made up of sums paid in as costs.

suits pro laesione fidei. Suits for breach of faith.

In the reign of Stephen, the clergy attempted to turn their ecclesiastical courts into courts of equity by entertaining such suits as for spiritual offenses against conscience, in cases of nonpayment of debt or indeed any breach of contract. But this attempt was frustrated by the Constitutions of Clarendon in 1166. See 3 Bl Comm 52.

suit to quiet title. See **quieting title.**

suit to remove cloud. See **quieting title.**

sulfur. Another spelling of **sulphur.**

sulphur. A chemical element. A mineral. 36 Am J1st Min & M § 5.

sum. The result of an addition of numbers. An amount or quantity of money, large or small. *United States v Van Auken*, 96 US. 366, 24 L Ed 852.

sum at risk. The maximum amount of insurer's liability under a policy; in the case of a valued policy, the valuation placed upon the property by the policy itself. 29A Am J Rev ed Ins § 1586. A term used in marine insurance policies meaning the valuation

placed upon the insured property by the policy itself. *Standard Marine Ins. Co. v Nome Beach Lighterage & Transp. Co.* (CA9 Cal) 133 F 636.

summa. See **in summa.**

Summa caritas est facere justitiam singulis et omni tempore quando necesse fuerit. The greatest charity is to do justice to everyone and at all times when it shall be needed.

Summa est lex quae pro religione facit. The highest law is that which makes for religion.

summa injuria. The greatest injury. See 1 Bl Comm 62.

Summam esse rationem quae pro religione facit. The highest reason is that which makes for religion. See Broom's Legal Maxims 19.

summa providentia. The greatest prudence. See 1 Bl Comm 461.

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Summa ratio est quae pro religione facit. The highest reason is that which makes for religion. See Broom's Legal Maxims 19.

summarily. Expeditiously; dispensing with formalities which merely delay action.

A statute giving the orphans' court the power "summarily" to direct payment of the prorated portions of an estate tax will be construed as not dispensing with the essential elements of due process as regards notice and opportunity to be heard. *Moreland's Estate*, 351 Pa 623, 42 A2d 63, 1 ALR2d 972.

summary. Short, concise. Reduced into a narrow compass or into a few words. *Treese v Ferguson*, 120 Okla 235, 251 P 91.

summary abatement. The abatement of a nuisance without judicial proceeding, even without notice or hearing, often by a destruction of the offending thing or structure. 39 Am J1st Nuis § 183 et seq.

summary contempt proceeding. A proceeding for an adjudication of contempt for a direct contempt in the immediate presence of the court, without pleading, affidavit, or formal charges, albeit the accused may be entitled to a hearing or at least opportunity to make an explanation of his conduct under oath. 17 Am J2d Contpt §§ 86-88.

summary conviction. Convicting an accused without giving him the benefit of a trial.

See **summary contempt proceeding.**

summary court-martial. The lowest in the rank of courts-martial, conducted before one commissioned officer, limited in jurisdiction to offenses of a minor or petty nature of which enlisted men, not commissioned officers, stand accused.

summary dismissal. A dismissal of a civil service employee without giving him opportunity to defend himself or a hearing of any kind. Anno: 131 ALR 396.

summary forfeiture. A forfeiture to the state of property without giving the owner opportunity to be heard. Anno: 17 ALR 574.

summary judgment. A judgment in a summary proceeding, as one rendered pursuant to statute against the sureties on a bond furnished in an action. 50 Am J1st Suret § 209. A judgment in certain actions specified in the statute providing the remedy, rendered upon plaintiff's motion, usually with supporting affidavits, upon the failure of the defendant to controvert the motion by filing an affidavit of defense or his failure to file an affidavit of defense or affidavit of merits sufficient to show the existence of a genuine issue of fact. 41 Am J1st Pl § 340.

A motion for summary judgment is not a trial; on the contrary it assumes that scrutiny of the facts will disclose that the issues presented by the pleadings need not be tried because they are so patently insubstantial as not to be genuine issues at all. Consequently, as soon as it appears upon such a motion that there is really something to "try," the judge must at once deny it and let the cause take its course in the usual way. *Cohen v Eleven West 42nd Street* (CA2 NY) 115 F2d 531.

summary jurisdiction. A jurisdiction exercised by summary proceedings, as in a bankruptcy court. 9 Am J2d Bankr § 68.

summary possessory proceeding. A proceeding, summary in character, to which a landlord may resort for the recovery or possession of leased premises when he becomes entitled to possession. 32 Am J1st L & T § 1016.

summary proceeding. A proceeding by which a controversy is settled, case disposed of, or trial conducted in a prompt, simple manner without the aid of a jury and without observance of requirements which prevail in a plenary action in reference to commencement of action, service of papers, etc. *Western & A. R. Co. v Atlanta*, 113 Ga 537, 38 SE 996. A proceeding in the Bankruptcy Court upon petition and answer at a day set for hearing upon notice or order to show cause against the relief proposed. 9 Am J2d Bankr § 69. A proceeding before an administrative body, requiring notice and hearing, but not requiring a full compliance with the rules governing trials of civil actions. *Emerson v Hughes*, 117 Vt 270, 90 A2d 910, 34 ALR2d 539.

Summary proceedings are not conducted without proper investigation of the facts, or without notice or an opportunity to be heard by the person alleged to have committed the acts, or whose property is sought to be affected. The term summary proceedings is also applied to proceedings which are taken lawfully, but without resort to the courts, such as the physical abatement of a nuisance, or the recaption of goods. *Western & Atlantic Railroad Co. v Atlanta*, 113 Ga 537, 38 SE 996.

summary trial. A trial of a person on a criminal charge, without a jury. A trial in a summary proceeding.

summation. The concluding argument of counsel, made after the introduction of evidence has been completed, counsel summarizing the points in favor of his client. A term sometimes applied to the court's statement of salient points in the evidence in his charge to the jury.

summing up. See **summation**.

summo jure. See **in summo jure**.

summoneas. A summons.

summons. In ordinary usage of the term, original process upon a proper service of which an action is commenced and the defendant therein named brought within the jurisdiction of the court, although sometimes regarded as process only when issued by the clerk or other officer of the court. 42 Am J1st Proc § 2. In convening a grand jury, a venire, precept, or such process or writ as is prescribed for the purpose by statute. 24 Am J1st Grand J § 21.

summum jus. The highest right; the strictest or most rigid law.

Summum jus est summa injuria. Rigid law is the greatest injustice. *Ogden v Saunders* (US) 12 Wheat 213, 283, 6 L Ed 606, 630.

Summum jus summa injuria. Rigid law is the greatest injustice, or, more freely translated, "too strict an interpretation of the law is frequently productive of the greatest injustice."

The maxim has its counterpart in the maxim, "Right too rigid hardens into wrong." *Caldwell v Ryan*, 210 Mo 17, 43, 108 SW 533.

sum payable. The amount payable by the obligor under a bill, note, or contract.

sumptuary laws. Statutes restraining luxury and extravagant expense in dress, diet, and the like.

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The sumptuary law of 1336, still in force in the time of Blackstone, provided that no man should be served at dinner or supper with more than two courses, except upon certain important specified holy days, when he might be served with three courses. See 4 Bl Comm 170.

Sunday. The first day of the week. 50 Am J1st Sun & H § 2. A holy day set apart as the Christian Sabbath, the observance of which as a day of rest is generally provided for by statute. The seventh day of the Jewish week. 50 Am J1st Sun & H § 2.

A statutory declaration that a certain day shall be a legal holiday does not indicate an attempt to elevate its status to that of Sunday. 50 Am J1st Sun & H § 2.

The observance of Sunday as a Sabbath or day of ceremonial rest was first enjoined by the Emperor Constantine as a civil regulation in conformity with the practice of the Christian church. Hence it is a maxim of the civil law, "Diebus dominicis mercari, judicari vel jurari non debet." On the Lord's Days it is not fitting to transact business, to decide cases nor to make an oath. *Richardson v Goddard* (US) 23 How 28, 16 L Ed 412, 417.

When the word is used in a statute which does not in any of its provisions indicate that some other meaning is intended, Sunday is construed as meaning the entire day from midnight of Saturday until midnight of Sunday. 50 Am J1st Sun & H § 2.

Sunday edition. The edition of a daily newspaper which comes out on Sunday; not a weekly newspaper. 39 Am J1st Newsp § 4.

Sunday law. A statute or municipal ordinance, sometimes known as a "blue law," which prohibits, with some necessary exceptions, the performance of labor or the engaging in a business, occupation, sport, or amusement enterprise on Sunday or during certain hours on Sunday. *Petit v Minnesota*, 177 US 164, 44 L Ed 716, 20 S Ct 666.

In its enactment, the legislature has given the sanction of law to a rule of conduct, which the entire civilized world recognizes as essential to the physical and moral well-being of society. One day in seven is the rule founded in experience and sustained by science. *Hennington v Georgia*, 163 US 299, 41 L Ed 166, 16 S Ct 1086.

Sunday Law of Charles the Second. The statute, 29 Car. II, c. 7, sec. 1, which provided that "no person whatsoever shall do or exercise any worldly labor, business, or work of their ordinary calling, on the Lord's Day."

This is not the prohibition of all worldly business or work, but only of one's "ordinary calling" so that one having no ordinary calling cannot come under the statute. In the United States, Sunday laws generally omit this limitation. *Lovejoy v Whipple*, 18 Vt 379.

Sunday school. A school providing religious instruction on Sunday, usually conducted in a church. A religious meeting within the meaning of a statute denouncing the disturbance of such a meeting. 24 Am J2d Disturb M § 2.

Sunday walking. Taking a walk for exercise, or recreation, not within a Sunday law which prohibits unnecessary walking on Sunday. *Sullivan v Maine Central R. Co.* 82 Me 196, 19 A 169.

sun parlor. A glass-inclosed room, often a porch, exposed to the sun. 20 Am J2d Cov § 257.

sunstroke. A severe disturbance of the body, caused by excessive exposure to the sun or even to artificial heat, resulting in convulsion and coma. Anno: 117 ALR 740; 36 ALR2d 1105.

An exhaustive search of the authorities appears to make it clear that the term may be applied with propriety to a condition produced by artificial heat as well as by the heat of the sun, and that the best usage warrants it; that such condition is comprehended within the ordinary meaning of the word wherever it is used with care and precision, whether in technical scientific treatises, or in works designed for the general reader. *Continental Casualty Co. v Johnson*, 74 Kan 129, 85 P 545.

sun time. Same as **solar time**.

suo genere. See **in suo genere**.

suo nomine. In his own name.

suo periculo. At his own risk.

super. Prefix: Over; above; higher in rank. Noun: One having a non-speaking part in a play. Slang for superior, also for superintendent.

superadded liability. A personal liability, otherwise known as double liability, once imposed quite generally in this country by constitutional or statutory provisions upon stockholders in banks or business corporations, such being a liability of a stockholder for debts or obligations of the banking or other corporation to the extent of the par value of the stock held by him. 10 Am J2d Banks § 73; 19 Am J2d Corp § 778.

At the present time, in practically all American jurisdictions, constitutional and statutory provisions imposing such liability for the general debts incurred by corporations, including banking corporations, either have been abolished or a constitutional or statutory provision declares that stockholders shall not be individually liable as such otherwise than for the unpaid shares owned by them. 19 Am J2d Corp § 775.

super altum mare. On the high sea.

superatione pasturae. See **de superatione pasturae**.

supercargo. A person employed by a commercial company or merchant to take charge of a cargo exported by the company or merchant to a foreign country or countries, to sell the goods there to the best advantage, and to purchase proper commodities to relade the ship on its return voyage. 48 Am J1st Ship § 484.

superconception. Conception by a woman already pregnant; also known as "superfoetation."

superficiarius. (Latin.) A term of the civil law for tenant under a lease for ground rent.

superficies. (Civil law.) The surface; anything erected upon and attached to the soil so as to become a part of the land.
See **in superficie**.

Superficies solo cedit. (Civil law.) Anything built into the land goes with the land.

Superflua non nocent. Superfluous things do not harm; superfluity does not prejudice.

superfluous allegations. See **surplusage**.

superfoetation. Same as **superconception.**

superhuman. Above man. Having powers beyond those of man.

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See **irresistible superhuman cause.**

superintend. To act as a superintendent. To exercise the power of superintendence.

superintendence. Over sight, inspection, supervision. *Moffitt v Asheville*, 103 NC 237, 9 SE 695. Care and oversight for the purpose of direction, and with authority to direct. The act of superintending.

"The word seems properly to imply the exercise of some authority or control over the person or thing subjected to oversight." *Dantzler v De Bardeleben Coal & Iron Co.* 101 Ala 309, 14 So 10.

superintendent. A corporate officer usually in charge of one of the several departments of the business. 19 Am J2d Corp § 1174. A representative of an employer, whose principal duty is that of superintendence of the workmen.

superintendent of banks. A state officer appointed and invested with power to license banks, supervise the conduct of the banking business within the jurisdiction, and liquidate failed banks. 10 Am J2d Banks § 17.

superintendent of highways. A state or municipal officer having and exercising powers and duties in reference to the establishment, construction, and maintenance of highways and streets.

superintendent of hospital. The person in charge of the operation of a hospital. 26 Am J1st Hospit § 8.

superintendent of public instruction. See **state superintendent of public instruction; superintendent of schools.**

superintendent of schools. An officer employed by a board of education, in charge of the work of the public schools in a city. In some jurisdictions, a county officer who maintains a general supervision over the public schools of the county.

See **state superintendent of public instruction.**

superintendent of streets. A municipal officer in charge of work upon the streets, whether construction or maintenance.

superintending control. Same as **supervisory jurisdiction.**

superior body. The body to which a local lodge or benefit society owes allegiance. 36 Am J2d Frat O § 35.

superior court. A term applied to courts of general jurisdiction generally. In some jurisdictions, the title of a court of general jurisdiction; in others, the title of an appellate court; in still others, the title of a municipal or county court.

superior force. An act of God. A fortuitous event. A force majeure. A force which man is not able to resist, in fact, a force which man can neither foresee nor prevent. *Lehman, Stern & Co. v Morgan's Louisiana & Texas Railroad & S.S. Co.* 115 La 1, 38 So 873 (definition in Louisiana Code of 1825).

superior lien. A prior lien. *Gilman v Jones*, 87 Ala 691, 5 So 785, 7 So 48.

superior servant rule. The common-law rule that an employee assumes the risk of the negligence of his superior fellow servant in directing employees, the operation of machinery, and the conduct of the work, to the same extent that he assumes the risk of the negligence of fellow laborers employed with him in the performance of the work. 35 Am J1st M & S § 364.

As promulgated by the supreme court of Ohio, the rule was that, where one servant was placed, by his master, in a position of subordination to another, and subjected to his orders and control, and such inferior servant, without fault, and while engaged in the discharge of his duties, was injured by the negligence of the superior servant, the master was liable for such injury; and this was true even though, at the time of the injury, the superior servant was performing the duties of a common workman. *Moore v Dublin Cotton Mills*, 127 Ga 609, 56 SE 839.

superior title. A title which will prevail in law or equity as against another asserted title, lien, or interest.

superior use. The principle under which property devoted to one public use is subject to condemnation for another of superior rank in respect of public necessity. 26 Am J2d Em D § 90.

supermarket. A business establishment, essentially of the modern age, consisting of a large, sometimes gigantic, store stocked with food of all kinds and varieties, quantities of all items of goods and merchandise found in ordinary grocery stores, some articles of hardware, even some articles of clothing, and operating under a self-help plan, the customers taking the packages and articles from the shelf or bin, and paying for them at a place near the exit known as a check-out.

supernatural. That which occurs beyond the experience, knowledge, comprehension, and understanding of man. That which occurs beyond the powers of nature as such are known to man.

superonerare. To surcharge.

See **surcharge**.

superoneratio. A surcharging.

See **surcharge**.

supersede. To remove in making way for another. To drop from use and replace.

supersedeas. A suspension of the power to issue an execution on a judgment or decree from which an appeal or proceeding in error has been taken; or, if a writ of execution has issued, a prohibition emanating from the appellate court against the execution of the writ, in other words, an auxiliary process designed to supersede the enforcement of the judgment of the court below brought up for review. 4 Am J2d A & E § 364. The effect of an appeal, writ of error, or certiorari, in suspending the enforcement of the judgment against which the appeal, writ of error, or certiorari is directed.

supersedeas bond. A bond required upon obtaining supersedeas, conditioned to protect the interest of the appellee or defendant in error. 4 Am J2d A & E § 369. A bond given by a party appealing from a judgment to stay execution thereon pending the appeal.

superseded pleading. A pleading replaced by an amended or substituted pleading. 41 Am J1st Pl § 202.

supersedendo. See **de supersedendo**.

supersedere. To supersede; to stay.

superseding cause. Same as **intervening cause**.

super se susceperunt. They supported, defended, or undertook.

superstitious uses. Uses such as those providing for masses for the welfare of the

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souls of the dead, which were held not to be strictly charitable uses. See 2 Bl Comm 273. See also, *Harrison v Brophy*, 59 Kan 1, 51 P 883.

supersurface use. The use of the space above a highway by abutting owners for private purposes. 25 Am J1st High § 198.
See **airspace**.

Supervacuum esset leges condere, nisi esset qui leges tueretur. It would be superfluous to make laws, unless those laws, when made, were to be enforced. *Chisholm v Georgia (US)* 2 Dall 419, 464, 1 L Ed 440, 460.

supervening cause. See **intervening cause**.

supervening negligence. See **intervening cause; last clear chance**.

supervise. To exercise oversight. To keep under inspection.
See **superintendence**.

supervising commissioner. The person before whom a deposition is taken, acting under a commission. 23 Am J2d Dep § 91.

supervising officer. The person before whom a deposition is taken, including a person acting under a commission as well as an independent public officer. 23 Am J2d Dep § 91.
Supervision of Trustees for Charitable Purposes Act. One of the uniform laws. 9 CULA Supp; 15 Am J2d Char § 114.

supervisor. In some jurisdictions, the title of a member of a county board. As defined by the Labor Management Relations Act, an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing the exercise of such authority requires the use of independent judgment. 29 USC § 152(3)(11); 31 Am J Rev ed Lab § 205.
See **board of supervisors**.

supervisor of highways. A state or local officer in charge of construction and maintenance of highways.

supervisory employee. A superintendent, foreman, or supervisor.

supervisory jurisdiction. A kind of original jurisdiction frequently conferred upon appellate courts, especially the highest court of the jurisdiction, in the nature of superintending control over inferior courts, exercised sometimes by making rules for inferior courts and enforcing those rules, and at other times by compelling or prohibiting action by the inferior court. 20 Am J2d Cts §§ 111 et seq. The control exercised in some jurisdictions by a court over executive or administrative officers and boards who exercise judicial functions incidentally. 1 Am J2d Admin L § 21.

supervisory writ. A writ such as certiorari, mandamus, or prohibition issued by a court having constitutional power to exercise a superintending control over inferior tribunals in order to keep such inferior tribunals within the bounds of their proper jurisdiction.
See **supervisory jurisdiction**.

super visum corporis. On a view of the body. 18 Am J2d Corn § 11.

super visum vulneris. Upon a view of the wound.

supper money. An allowance made an employee working overtime.

supplement. Verb: To add to a published work for the purpose of giving additional and later material. Noun: A publication, usually issued periodically, supplying additional and later material to an original publication.

supplemental. Added to supply a deficiency, or defect.

supplemental account. An account required of a guardian for the correction of errors in his prior accounting. 25 Am J1st G & W § 160.

supplemental act. Same as **supplemental statute.**

supplemental affidavit. An affidavit filed by the creditor in attachment in addition to the affidavit upon which the writ was issued, setting forth further facts in support of the application for the writ. 6 Am J2d Attach § 275.

supplemental answer. See **supplemental pleading.**

supplemental assessment. An additional special assessment for the payment of a local improvement, required because of the insufficiency of the original assessment. 48 Am J1st Spec A § 150.

supplemental bill. A pleading in equity which is supplemental or additional to, and filed in aid or support of, an original bill or complaint. *Rebello v Cardoso*, 81 RI 360, 103 A2d 80. A pleading in equity which has the function of supporting the cause of suit existing when the original bill was filed. *Bethlehem Fabricators v H. D. Watts Co.* 286 Mass 556, 190 NE 828, 93 ALR 1124.

supplemental brief. An additional brief on appeal filed by consent of court or pursuant to rules of court. 5 Am J2d A & E § 690.

supplemental complaint. See **supplemental pleading.**

supplemental deed. A deed to the purchaser at a tax sale in substitution for an original which is defective or invalid. 51 Am J1st Tax § 1087.

supplemental injunction. An injunction issued in aid of an action before the court for the purpose of protecting its jurisdiction or making its judgment effective. 28 Am J Rev ed Inj § 15. An injunction granted by way of aiding an action or proceeding in another court in preserving the existing status until the case has been disposed of in the other court. 28 Am J Rev ed Inj § 16.

supplemental levy. A levy made by the officer to whom a writ of attachment is directed, after a prior levy by him under the writ, such additional levy being necessary to satisfy the writ. 6 Am J2d Attach § 294.

supplemental petition. A petition asserting matters arising subsequent to the filing of the petition, for example, matters arising after the filing of a petition for certiorari. *Lavore v Industrial Acci. Corn.* 28 Cal App 2d 488, 82 P2d 738.

supplemental pleading. A pleading of new matter in support of an original complaint, bill, declaration, or petition. *Jenkins v International Bank*, 127 US 484, 32 L Ed 189, 8 S Ct 1186. A pleading bringing to the notice of the court matters occurring since the filing or service of the original pleading. 41 Am J1st Pl § 261.

An answer consisting merely of an addition to the original answer of the defendant, which original

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answer had contained all the denials necessary to put in issue the material allegations of the complaint, was a supplemental answer and not an amended one. *Yeatman v Patrician*, 144 Wash 241, 257 P 622.

See **supplemental bill**.

supplemental proceeding. See **supplementary proceeding**.

supplemental remedy. See **extraordinary remedies; supplementary proceeding**.

supplemental statute. A statute intended to improve an existing statute by adding something thereto without changing the original text. 50 Am J1st Stat §3.

supplemental surety. One who stands as surety for another who is himself only a surety. 50 Am J1st Suret § 5.

supplemental tax. An additional inheritance tax imposed by way of correcting error in the omission of property made in calculating the amount of the tax. Anno: 64 ALR 1283.

supplementary. Same as **supplemental**.

supplementary proceeding. A proceeding for the enforcement of a judgment where the ordinary means of enforcement by execution is unavailable or unavailing, sometimes regarded as a proceeding in the original action, at other times as a civil action or proceeding in itself, whereunder the plaintiff is enabled to examine the judgment debtor and third persons for the purpose of obtaining information concerning property owned by the debtor which may be applied in payment of the judgment. 30 Am J2d Exec §§ 774 et seq.

suppletory oath. See **oath suppletory**.

supplicate. To petition in an earnest and humble manner.

supplicatio. (Civil law.) Same as **duplicatio**.

supplicavit. He hath supplicated.

See **writ of supplicavit**.

supplicium. (Civil law.) The death penalty.

supplies. Available aggregate of things needed or demanded; anything yielded or afforded to meet a want. *Anderson v United States Fidelity & G. Co.* 44 NM 483, 104 P2d 906, 129 ALR 1084 (word appearing in performance bond).

supply. Verb: To furnish. To meet a need. Noun: A substitute serving temporarily, particularly in teaching school.

See **bill of supply; supplies**.

support. Verb: To carry the weight of something. To comfort and sustain. To furnish the necessities of life for maintenance in a proper manner, not merely the necessities for a bare maintenance. Anno: 13 ALR 689 (term appearing in workmen's compensation statute). To provide the means of maintenance of a person. 50 Am J1st Sup Per § 2. Noun: Articles for the sustenance of a person, as food, clothing, and other conveniences, even medicines and medical services. 50 Am J1st Sup Per § 2. Maintenance, subsistence, or income for the sustenance of one person or a family. Wall v Williams, 93 NC 327. As used in a statute exempting from execution food necessary for the "support of the debtor and his family" for a specified period:—provisions on hand sufficient to provide for the necessary use of the family for the prescribed period; usually not inclusive of such provisions as are necessary to provide for persons the debtor is under no obligation to support. 31 Am J2d Exemp § 78.

See **lateral support; subjacent support.**

support bond. See **bond for support.**

supporting affidavit. An affidavit in support of a motion, for example, a motion for a continuance. 17 Am 12d Contin § 44. An affidavit in support of an application for injunction, particularly a preliminary or temporary injunction. 28 Am J Rev ed Inj § 264.

supporting papers. Affidavits in support of a motion. 37 Am J1st Motions § 14.

support of building. A right of an owner and a corresponding liability of an adjoining owner under grant, express or implied, or under reservation, sometimes existing as a prescriptive right, although not included in the right of lateral support and confined to the condition of things at the time of the acquisition of the right. 1 Am J2d Adj L §§ 4042.

See **lateral support; subjacent support.**

support of child. A moral obligation; a principle of natural law, as well as the common law, to maintain and care for one's minor child. 39 Am J1st P & C § 35.

Support of Dependents Act. One of the uniform laws. 23 Am J2d Desert § 125.

support of family. The duty of a husband, arising out of the marital relationship and imposed by law, to provide wife and family with a place of abode, the necessities and comforts of life, which are suitable when considered in reference to the particular estate, social rank, and condition of the husband and wife, and the means and earning power of the husband. 26 Am J1st H & W §§ 337, 338.

support of land. See **lateral support; subjacent support.**

support of person. See **support.**

support of wife. A duty arising out of the marital relationship and imposed by law which continues during the existence of the relationship. 26 Am J1st H & W § 338.

See **support of family.**

support order. An order for support of wife or child, especially an order under the Uniform Desertion and Nonsupport Act. 23 Am J2d Desert §§ 48 et seq. An allowance, in addition to alimony, granted a divorced wife, for the maintenance of children placed in her custody by the judgment or decree of divorce. 24 Am J2d Div & S § 827.

support trust. A protective trust wherein the interest of the beneficiary is protected against his grantees or assignees and against his creditors by limiting his interest to that which is necessary for his support and education. 54 Am J1st Trusts § 163.

supposition. Something regarded as true, without proof.

In the law of evidence, an inference is a deduction from the facts proved and differs widely from a "supposition," which requires no such premise for its justification. *Continental Casualty Co. v Paul*, 209 Ala 166, 95 So 814, 30 ALR 802, 804.

suppress. To restrain. To put down by force.

To suppress means to prevent, and does not mean

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to license or sanction the act to be suppressed. *Schwuchow v Chicago*, 68 Ill 444, 448.

See **suppression**.

suppressio mensis. Suppression of the menses.

suppression. The subduing of a movement by force. Restraint. Concealment. Abolition.

There is a distinction between the suppression of a fact and mere silence. Where there is an obligation to speak, a failure to speak will constitute the suppression of a fact; but, where there is no obligation to speak, silence cannot be termed suppression. *Chicora Fertilizer Co. v Dunan*, 91 Md 144, 46 A 347.

suppression of bids. See **chilling bids; stifling bids**.

suppression of competition. A form of monopolistic practice. 36 Am J1st Monop etc § 6.

suppression of deposition. A remedy obtained on motion raising an objection to the use of a deposition on the ground of defects or irregularities in the proceeding for and the taking of a deposition. 23 Am J2d Dep § 130.

suppression of evidence. Relief obtained upon motion in preventing evidence illegally secured from being introduced in a case. 29 Am J2d Ev § 425. The failure of a party to testify or to produce available witnesses, his destruction or spoliation of evidence. 29 Am J2d Ev §§ 175 et seq.

To determine whether there has been a suppression of evidence, by the state in a criminal prosecution, it is necessary to consider the facts and circumstances in each case in which the question arises. If the evidence in question has no probative value, is merely cumulative, or is equally available to the accused, there can certainly be no duty on the prosecution to disclose such evidence to the accused in order to avoid what would otherwise amount in practical effect to concealment or suppression. *Re Curtis* (DC Dist Col) 36 F Supp 408.

suppression of the menses. Stopping of the menses. Sometimes the exciting cause of temporary insanity. *Smith v Smith*, 47 Miss 211, 217.

suppression of will. The failure of a person having the will of another in his custody to produce it for probate on notice of the death of the testator. The failure of a person having the custody of a will because of the delivery of the instrument to him for custody and safekeeping, to produce the instrument for probate after the testator's death or within a certain time thereafter, provided he has notice of the death. 57 Am J1st Wills § 750.

suppressio veri. Suppression of the truth.

Suppressio veri, expressio falsi. The suppression of that which is true amounts to the expression of that which is false. *Addington v Allen* (NY) 11 Wend 374, 417.

Suppressio veri, suggestio falsi. The suppression of truth is the expression of falsehood. *Paul v Hadley* (NY) 23 Barb 521, 525.

sup pro. Abbreviation of **supplementary proceeding**.

supra. Above; above mentioned; in addition to.

See **ubi supra**.

supra dictus. As stated above; as before stated.

supra protest. See **acceptance for honor; acceptance supra protest; payment for honor**.

supremacy. See **act of supremacy; supremacy clause**.

supremacy clause. The provision in Article VI, Clause 2, of the United States Constitution that "this Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

suprema voluntas. The last will.

Supreme Court. In some jurisdictions the highest appellate court; in other jurisdictions a court of general jurisdiction.

Supreme Court of the United States. See **United States Supreme Court**.

supreme executive power. Such power as will secure an efficient execution of the laws, which is the peculiar province of the executive department, to be accomplished, however, in the manner and by the methods and within the limitations prescribed by the constitution and statutes of the state. State ex rel. Stubbs v Dawson, 86 Kan 180, 119 P 360.

supreme law of the land. See **supremacy clause**.

sur. On; upon.

surcharge a common. To disturb a common by putting more cattle therein than the pasture and herbage will sustain, or more than one so doing has a right to do.

The other owners are thereby injured by being deprived of their respective portions, or by contracting them into a smaller compass. See 3 Bl Comm 237.

surcharge. An additional amount added to the usual charge. An exaction.

surcharge and falsify. To disprove a stated account in respect of particular items by showing the inclusion of an item by error (surcharging) and by showing error respecting the amount of an item. (Falsifying.) Rehill v McTague, 114 Pa 82.

surcharging guardian. Holding a guardian responsible for money or property of the ward lost by reason of negligence or failure of duty, or which the guardian might have recovered and received by the exercise of reasonable diligence and ordinary prudence, also for his failure to invest funds of the ward so as to obtain income therefrom. 25 Am J1st G & W § 174.

sur disclaimer. On disclaimer. See 3 Bl Comm 233.

surety. A person who engages under a contract of suretyship to answer for the debt, default, or miscarriage of another. 50 Am J1st Suret §§ 2, 3. For some purposes, inclusive of a guarantor. UCC § 1 -201(40).

As applied to persons, the word has an established and well-known meaning in the minds of most people, and indicates an obligation to stand for the sum absolutely, unless discharged by the supine negligence of the obligor after notice. It is in broad contrast with the word "guaranty" which imports a conditional liability, that is, liability if due steps are taken against the principal debtor. *Marberger v Pott*, 16 Pa 9.

See **suretyship**.

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surety company. A corporation engaged in the business of acting as a surety or guarantor on bonds, undertakings, or contracts, for compensation known as a premium. 50 Am J1st Suret § 312.

surety company agent. The agent of a surety company, comparable in reference to the scope of his authority to the agent of an insurance company. 50 Am J1st Suret § 314.

surety company contract. A contract wherein the surety is a compensated surety, that is, a surety company. 50 Am J1st Suret § 313.

surety contract. A contract of suretyship.

See **suretyship**.

surety of the peace. A bond or undertaking to keep the peace.

suretyship. A contractual relation, resulting from a primary, original, absolute, and unconditional engagement, whereby one person, the surety, engages to be answerable for the debt, default, or miscarriage of another, the principal. *Madison County Farmers Asso. v American Employers' Ins. Co.* (CA8 Ark) 209 F2d 581, 42 ALR2d 1153; *Welch v Walsh*, 177 Mass 555, 59 NE 440.

While the contract of a surety is, in a sense, accessory or collateral to a valid principal obligation contracted by another person, either contemporaneously or previously, his obligation to the creditor or promisee of the principal is direct, primary, and absolute. 50 Am J1st Suret § 2.

It is the essence of the contract that there be a subsisting valid obligation of a principal debt. Without a principal there can be no surety. *First Nat. Bank v Boxley*, 129 Okla 159, 264 P 184, 64 ALR 588.

The vital difference between the contract of a surety and that of a guarantor is that a surety is charged as an original promisor, while the engagement of the guarantor is a collateral undertaking. A surety is a party to the principal obligation, undertaking together with the principal debtor that it shall be performed, while the guarantor is not a party to the principal obligation. 24 Am J1st Guar § 11.

surface. Verb: To apply to street, highway, or driveway a top covering or layer of durable material of substantial depth or thickness. Anno: 84 ALR 1158. Noun: The superficial part of the land; the part of land capable of being used for agricultural purposes. Anno: 31 ALR 1530. Within the meaning of the right to subjacent support:-any stratum above the subjacent stratum in question, including any higher stratum as well as the actual surface of the soil. 1 Am J2d Adj L § 77. In mining law, the soil lying over the minerals. Not merely a geometrical surface, but whatever earth, soil, or land lies above and superincumbent on a mine. *Clinchfield Coal Corp. v Compton*, 148 Va 437, 139 SE 308, 55 ALR 1376. A somewhat elastic term, as it appears in an oil lease, the meaning of which is to be determined according to such collateral matters as the situation of the parties, the business in which they are engaged, the purposes to be accomplished, and etc. *Ramage v South Penn Oil Co.* 94 W Va 81, 118 SE 162, 31 ALR 1509.

surface deed. A deed designed to convey the surface of the land alone, not carrying the minerals below the surface. 36 Am J1st Min & M § 31. A matter of reservation or exception of mineral rights. 24 Am J1st Gas & O § 29.

surface measurement. Following the surface of the ground in measuring land; running the chain or tape at the surface up and down hill, without stretching it from the top of one acclivity to the top of another. 12 Am J2d Bound § 58. A method to be compared with **horizontal measurement**.

surface of land. See **surface**.

surface stream. A stream which flows in a permanent, distinct, and well-defined channel from the lands of one owner to those of another. Tampa Waterworks Co. v Cline, 37 Fla 586, 20 So 780.

surface water. Water derived from falling rain or melting snow, or rising to the surface in springs, and diffused over the surface of the ground. 56 Am J1st Water § 65. Inclusive of flood water severed from the main current and spreading out over lower ground. 56 Am J1st Water § 92.

surgeon. A person who heals by means of manual operations. 41 Am J1st Phys & S § 2. A physician who specializes in surgery.

surgery. A specialized branch of the art of healing, limited to manual operations performed with instruments or appliances, by a legally qualified physician. Joyner v State, 181 Miss 245, 179 So 573, 115 ALR 954. Therapy of a distinctly operative kind. Stewart v Raab, 55 Minn 20, 56 NW 256.

See **medical or surgical treatment**.

surgical aid. A resident physician or interne assisting the surgeon in performing an operation. "Relief pertaining to surgery or used in surgery."

In its ordinary significance, the term is not limited to the personal service of the surgeon, but includes all the means and instrumentalities used in surgery which will help to effect a cure. Olmstead v Lamphier, 93 Conn 20, 104 A 488, 7 ALR 542, 544.

surgical nurse. See **nurse**.

surname. A person's last name. The family name. 38 Am J1st Name § 3. The name continued from parent to child.

Originally there were no surnames but the insufficiency of a given name to distinguish an individual led necessarily to the adoption of surnames. In the fourth year of Edward IV (1464), the first statute requiring the use of surnames came into existence. 38 Am J1st Name § 3.

surplus. That which is not needed; that which is left over. Lawrence v American Surety Co. 263 Mich 586, 249 NW 3, 88 ALR 535. A fund constituting part of the capitalization of a corporation, accumulated by profits, earnings, and other increments. A fund constituting part of the capital structure of a bank, built up by earnings. The property or fund which a corporation has in excess of its capital stock, and above all its debts and liabilities. State v Yard, 42 NJL 357, 359. The amount to be divided between the survivors under the tontine plan of insurance, comprising the funds remaining after the payment of benefits, expenses, and the intermediate apportionment of profits. 29 Am J Rev ed Ins § 16. As applied to a trust fund:—an amount in excess of the capital or corpus of the trust. Alvis v Bank of America Nat. Trust & Sav. Asso. 95 Cal App 2d 118, 212 P2d 608, 36 ALR2d 1209.

surplusage. Words in an instrument which add nothing to the force and legal effect of the instrument. 11 Am J2d B & N § 198. Superfluous or unnecessary allegations or words in an indictment or infor-

mation. 27 Am J1st Indict § 109. Matter included in a pleading which is not essential to the statement of a cause of action or defense. 41 Am J1st Pl § 51.

surplusage does not vitiate. A maxim. *State v Richards*, 32 W Va 348, 9 SE 245.

Surplusagium non nocet. Surplusage does not harm; surplusage does not prejudice.

surplus earnings. An amount owned by a corporation, over and above its capital and actual liabilities. *People ex rel. Manhattan Fire Ins. CO. v Commissioners of Taxes*, 76 NY 64, 74.

surplus fund. A fund remaining after the accomplishment of the purpose for which an appropriation of public funds was made. Anno: 70 ALR 431. Funds not necessary to be kept on hand in cash for immediate use or ordinary demands have been held to be surplus funds of the state. See *Lawrence v American Surety Co.* 263 Mich 586, 249 NW 3, 88 ALR 535.

surplus line broker. An insurance broker whose business activities embrace variable risks and kinds of insurance. 29 Am J Rev ed Ins § 77.

surplus money proceeding. A proceeding in a mortgage foreclosure to determine rights in the part of the proceeds of foreclosure sale not required for satisfaction of the mortgage and payment of costs. 37 Am J1st Mtg § 873.

surplus personal estate. That part of the personal property in the estate of a decedent which remains after the payment of expenses of administration and debts, including taxes, for which the decedent was liable or for which the estate is liable. *Weinberg v Safe Deposit & Trust Co.* 198 Md 539, 85 A2d 50, 37 ALR2d 188.

surplus proceeds. That part of the proceeds of a sale on execution not required in satisfaction of the judgment. Anno: 97 ALR 1003.

See **surplus money proceeding.**

surplus property. An excess of property seized under a writ of attachment or execution over the amount required to satisfy the indebtedness of the defendant. 6 Am J2d Attach § 145; 30 Am J2d Exec § 230. Goods purchased for use by the armed forces, the need for which has disappeared with the termination of hostilities and the release or discharge of military personnel.

surplus water. A supply of water in excess of that to which a canal proprietor is lawfully entitled for purposes of navigation. 13 Am J2d Can § 16. Water flowing over lands from adjoining premises upon which it had been spread for irrigation purposes. 30 Am J Rev ed brig § 26.

surprise. Astonishment by the unexpected. Aroused by the unusual. The condition in which a party to an action finds himself, contrary to his reasonable expectation, through no fault or neglect of his own, and to his probable injury. *Gidionsen v Union Depot Railway Co.* 129 Mo 392, 401, 31 SW 800. A ground for relief only where accompanied by fraud or circumvention. *Citizens' National Bank v Branden*, 19 ND 489, 126 NW 102; *McDaniels v Bank of Rutland*, 29 Vt 230.

surrebutter. A plaintiff's pleading in response to the defendant's rebutter. 41 Am J1st Pl § 181.

surrejoinder. A pleading by the plaintiff in response to the defendant's rejoinder. 41 Am J1st Pl § 181.

surrender. Yielding possession. A yielding up of an estate for life or years, to him who has the immediate estate in reversion or remainder, wherein the estate for life or years may drown by the mutual agreement. *Schieffelin v Carpenter* (NY) 15 Wend 400, 405. A giving up of something, as where a subscriber gives back to the corporation stock for which he has not paid the subscription price. Anno: 101 ALR 232. The relinquishment of one's right to an invention, thereby dedicating it to the public. 40 Am J1st Pat § 61. A condition of recovery of payment upon an instrument. 12 Am J2d B & N § 1025 (surrender of instrument.) A yielding of one's person as where an accused surrenders to an officer of the law.

surrender by bail. The turning over or delivery of a prisoner who had been released on bail to the custody of the law, by his bondsmen or sureties.

surrender by operation of law. A surrender by a tenant which results from acts which imply mutual consent independently of the expressed intention of the parties that their acts shall have that effect,

Such a surrender is by way of estoppel; and the relinquishment of possession by the tenant and the resumption of possession by the landlord operate, as a general rule, as a surrender by operation of law. 32 Am J1st L & T §905.

See **surrender in law.**

surrender charge. A charge imposed by a life insurance company in determining cash-surrender value, or the amount of paid-up, or extended insurance. 29 Am J Rev ed Ins § 626.

surrender clause. The provision in an oil or gas lease whereby the lessee is given the privilege of surrendering his rights and terminating his liability upon the giving of a stipulated notice or the payment of a designated sum of money, or, in some cases, without either of these formalities. 24 Am J1st Gas & O § 78. The clause of a life insurance policy which provides certain options for the insured upon his surrender of the policy. 29 Am J Rev ed Ins § 619.

surrenderee. The cestui que use; that is, the person for whose use a surrender was made by a tenant to his lord. See 2 Bl Comm 366.

surrenderer. One who surrenders. A tenant who surrendered his copyhold estate to his lord.

"Till the admittance of the cestui que use, the lord taketh notice of the surrenderer as his tenant." See 2 Bl Comm 368.

surrender in deed. A surrender effected by means of a deed from the surrenderer to the surrenderee.

surrender in fact. A surrender by tenant for life or years to the remainderman or reversioner, according to the apparent intent of the parties. *Schieffelin v Carpenter* (NY) 15 Wend 400, 405.

The effect is to pass the estate of the tenant to the landlord, extinguishing the rent reserved. It is a contractual act which occurs only through the consent of both parties, evidenced by express agreement or an unequivocal act which implies that they have agreed to consider the surrender as being made. To show acceptance of surrender of a leasehold by implication, there must be evidence of acts so inconsistent with the terms of the lease that the relation of landlord and tenant established by reletting could not be enforced under the terms of the

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first lease. *Ralph v Deiley*, 293 Pa 90, 141 A 640, 61 ALR 763.

surrender in law. A surrender of a lease to the reversioner by accepting from the latter a new lease of the same premises or a part thereof. *Schieffelin v Carpenter* (NY) 15 Wend 400, 405.

See **surrender by operation of law.**

surrender of charter. The dissolution or termination of the existence of a corporation by a formal act on the part of the corporation in yielding its charter to the sovereignty under which the corporation was created and the acceptance of the same by the government. 19 Am J2d Corp § 1591.

surrender of franchise. The termination of a franchise by its voluntary surrender by the grantee, even a surrender presumed from circumstances indicating abandonment. 36 Am J2d Franch § 47.

See **surrender of charter.**

surrender of policy. The cancellation of an insurance policy completed upon delivery of the instrument by the insured to the insurer. 29 Am J Rev ed Ins § 400.

surrender of preference. The yielding by the creditor of a bankrupt to the trustee in bankruptcy of a conveyance, assignment, lien, transfer, or encumbrance, which is void or voidable under the Bankruptcy Act, as a condition of the allowance of the claim of such creditor. 9 Am J2d Bankr § 485.

surrender of tenancy. A yielding of a tenancy to the owner of the reversion or remainder, the effect being an extinguishment of the tenancy. 32 Am J1st L & T § 900.

surrenderor. See **surrenderer.**

surreptitious. Clandestine. Secret. Kept secret, especially for a fraudulent purpose.

surrogate. A deputy chancellor who presides in English ecclesiastical courts; the title of the judge who presides in a probate court in certain states of the Union.

surrogate's court. A probate court. 20 Am J2d Cts § 32.

See **probate court.**

surrounding circumstances. The circumstances surrounding a transaction, an act, or an accident involved in an action or proceeding.

The surrounding circumstances, which, in connection with the happening of an accident, may permit an inference of culpability on the part of defendant under the rule of *res ipsa loquitur*, refer, not to circumstances directly tending to show lack of care, but only to neutral matters of control and management by defendant which, when explained, may appear to be entirely consistent with due care. *Plumb v Richmond Light & R. Co.* 233 NY 285, 133 NE 504, 25 ALR 685.

sursisa. Same as **sursise.**

sursise. Negligence; default.

sursumredditio. A surrender, the yielding up of a copyhold estate by the tenant into the hands of the lord. See 2 Bl Comm 365.

surtax. An additional tax imposed on income already taxed. A tax at an increased rate on income exceeding a specified amount. *Van Dyke's Appeal*, 217 Wis 528, 259 NW 700, 98 ALR 1332.

surveillance. Oversight. Observation, especially of a person suspected of criminal activities.

survey. The determination of the boundary or boundaries of land. *Bunger v Grimm*, 142 Ga 448, 83 SE 200. The map, plat, or other memorandum of the determination of a land boundary by a surveyor. 12 Am J2d Bound § 99. An architect's examination of premises in making recommendations for construction, preliminary sketches, and layouts. 5 Am J2d Arch § 3. An examination of a vessel taken as a prize of war for the purposes of an appraisal leading to a sale before an adjudication in a court of prize. 56 Am J1st War § 181.

The word "survey" and the word "map" or "profile" are sometimes used as convertible terms, but a distinction has been made between books of surveys and maps or draughts of land. And generally, when the term "survey" is used in relation to the location of proprietary rights, it is understood to mean a description, in words and figures, of the lands located. See *Atty. Gen. v Stevens* (NY) 1 Saxton Ch 369.

See **call; Congressional Survey; course; range.**

surveyor. An officer in the customs service. 21 Am J2d Cust D §§ 64, 65. A person who engages in the occupation of measuring land surfaces, establishing land boundaries, etc. *Doe v Jones*, 327 Ill 387, 158 NE 703, 55 ALR 303.

surveyor of the port. See **surveyor.**

survival. Continuation of life.

survival acts. Statutes which provide for the survival of a cause of action notwithstanding the death of a party. 1 Am J2d Abat & R §§ 51 et seq.

survival of cause of action. A cause of action remaining effective notwithstanding death of plaintiff or defendant. 1 Am J2d Abat & R §§ 51 et seq.

survive. To outlive another person or live beyond a designated date or the happening of a designated event. 57 Am J2d Wills § 1396.

See **survival of cause of action.**

survive to the remaining children. Words of purchase.

The expression as used in a testamentary provision that in the event of death of any of the testator's children for whose benefit a trust is created, without issue living at the time of such child's death, the share of such child in the income and capital of the trust shall survive to the remaining children above named share and share alike, imports that the accretion upon the death of one without issue living goes to the children then living, to the exclusion of the issue of a deceased child. *Marbury v Bouse*, 187 Md 106, 48 A2d 582, 166 ALR 1272, 1275.

surviving. See **survival; survive; survivor.**

surviving children. A familiar designation of beneficiaries under will or deed of trust.

In the absence of qualifying words, the term "surviving children" in a deed of trust to provide for the grantor's surviving children means all who survive the grantor or other designated person. *Frosch v Walter*, 228 US 109, 57 L Ed 750, 33 S Ct 494; *Nass' Estate*, 320 Pa 380, 182 A 401, 114 ALR 1.

surviving wife. A widow. For definition of term as it pertains to the rights of a woman, who married an injured workman, to compensation as his "surviving wife," under workmen's compensation acts, see Anno: 98 ALR 994.

survivor. One who outlives another person or persons of a group of which he was a part, or lives

beyond a designated date or the happening of a designated event. 57 Am J1st Wills § 1396.

The vested or contingent character of a remainder to survivors frequently depends upon whether the survivorship relates to the death of the testator or grantor or to some other. Obviously, if words of survivorship relate to the period of distribution, generally the death of the life tenant, the remainder is contingent, since who will survive such time in order to take the remainder is uncertain until the time of the life tenant's death or other event. Survivorship is then a condition precedent to the vesting of a gift, and a remainder subject to a condition precedent is contingent. If the words of survivorship are held to refer to the time of the grant or of the death of the testator, or, in other words, to the time when the deed or will takes effect, the remainder may be vested, either absolutely or defeasibly, or the conditions of the limitation, other than survivorship, may render the remainder contingent, even though the persons who are to take are definitely ascertained. 28 Am J2d Est § 266.

survivorship. The fact of being a survivor, of outliving another person or other persons. A right incident to an estate in joint tenancy whereunder the entire estate, upon the death of a joint tenant, remains in the survivor or survivors. 20 Am J2d Coten § 3. A right incident to an estate by the entireties, so that upon the death of one of the spouses, the whole of the estate remains in the survivor. 26 Am J1st H & W § 82.

See **presumption of survivorship; survivor; wife's right of survivorship.**

survivorship annuity. An annuity for joint lives of two persons and for the life of the survivor. 4 Am J2d Annui § 6.

survivorship of joint tenants. See **survivorship.**

susceptible. Ready to be persuaded. Easily influenced.

suspect. Verb: To entertain a suspicion of guilt. To hold a faint belief. To believe something, knowing the lack of proof to sustain the belief. Noun: One under suspicion of guilt of a crime.

suspends. A word of bad portent, quite familiar during the Great Depression, meaning that a bank has failed, that an examiner or other public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business. UCC § 4-104(1)(k).

suspence. A state of uncertainty. See **en suspence.**

Suspendatur per collum. Let him be hanged by the neck.

These Latin words in their abbreviated form "sus. per coil.," were written opposite the name of a convict sentenced to be hanged in the calendar or list of all the prisoners' names, with their separate judgments in the margin. See 4 Bl Comm 403.

suspended. Temporarily inactive or inoperative; held in abeyance.

Such is its meaning in the constitutional provision that the privilege of the writ of habeas corpus shall never be suspended. See *Wisener v Burrell*, 28 Okla 546, 118 P 999.

suspended sentence. See **suspension of sentence.**

suspension. A termination of an employee's service by the employer, usually for the purpose of an investigation to determine whether or not the employee should be retained in service. A break in the relationship of employer and employee consequent upon the employee's deviation from the employer's business. 35 Am J1st M & S § 555. A temporary but forced withdrawal of a civil service employee. 15 Am J2d Civ S § 34.

suspension of action. The status of an action following the death of a party but prior to the substitution of the representative of the deceased party or other person who succeeds to his interest. 1 Am J2d Abat & R § 47.

suspension of interest. The stopping of the running of interest on an obligation by tender which is refused or by something preventing the payment of the obligation other than the fault of the debtor. 30 Am J Rev ed Int § 51.

suspension of judgment. See **opening judgment; stay of execution.**

suspension of liquor license. A temporary deprivation of rights or privileges under a license to sell or deal in alcoholic beverages. 30 Am J Rev ed Intox L§174.

suspension of member. A temporary deprivation of the rights and privileges of membership in a society. 36 Am J2d Frat O § 62. The lifting for the time of the name of a member of a non-profit corporation from the membership list and the annulment for the time of his rights as a member. 18 Am J2d Corp § 473.

suspension of payment. Failure to pay obligations because of want of financial ability.

The expression means something more than a failure of the maker of commercial paper to seek the holder and pay him. Business men well understand its meaning; there is the idea in it of a failure to pay from an inability to do so. It has been held in effect that a suspension of payment occurs where a person indebted to others is unable to meet his engagements with and to pay his creditors in full. *McCormick & Co. v Gem State Oil & Products Co.* 38 Idaho 470, 222 P 286, 34 ALR 867, 871.

See **moratorium; suspends.**

suspension of performance. An interruption in the performance of a contract whether by agreement of the parties or caused by supervening circumstances.

suspension of policy. The ineffectiveness of a policy of insurance for a period, such as for the time during which a forfeiture, later avoided, is in existence. 29 Am J Rev ed Ins § 734.

suspension of power of alienation. See **rule against suspension of power of alienation.**

suspension of pupil. Denying a school pupil the right of attendance, not permanently but for a stated period of time. 47 Am J1st Sch § 177.

suspension of sentence. The suspension of imposition of sentence after conviction or plea of guilty for determinate and reasonable period. 21 Am J2d Crim L § 552. Postponement of the judgment of the court temporarily or indefinitely, the conviction and the disabilities arising therefrom remaining and become operative when judgment is rendered. *Ex parte Bates*, 20 NM 542, 151 P 698; *Buchanan*, 146 NY 264, 40 NE 883, 886. Staying the execution of a sentence imposed upon plea of guilty or conviction of a criminal offense. 21 Am J2d Crim L § 558.

suspension of statute of limitations. The lifting of a statute of limitations from a cause of action because of certain circumstances such as disability of the plaintiff, the absence of the defendant from the

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state, concealment of cause of action, etc. 34 Am J1st Lim Ac §§ 186 et seq.

suspensive condition. A term of a contract whereby the obligation is not to take effect until the happening of a certain event. *New Orleans v Texas & Pacific R. Co.* 171 US 312, 43 L Ed 178, 18 S Ct 875 (quoting from the Louisiana Civil Code which is said to be similar to the Code Napoleon in such respect). In effect, a condition precedent.

suspenso. See **in suspenso.**

sus. per coil. See **suspendatur per collum.**

suspicion. The imagination of the existence of something without proof, upon very slight evidence or upon no evidence at all. *Gulf, Colorado & Santa Fe Railway Co. v Shieder*, 88 Tex 152, 30 SW 902.

sustain. To uphold. To provide support. To endure; to undergo.

Within the meaning of the Federal income tax statute losses are "sustained" when the events definitely occur which give rise thereto. *Brooks v United States* (DC Pa) 32 F Supp 158.

sustaining demurrer. Upholding a demurrer. Deciding in favor of the demurrant.

A demurrer is sustained when an order of court is made to the effect that the demurrer is sustained and the order is entered upon the docket. See *Kaufman v Buckley*, 285 Mass 83, 188 NE 607.

sustenance. That which supports life; food; victuals; provisions; that necessary food and drink which is sufficient to support life and maintain health. *Groves v State*, 116 Ga 516, 42 SE 755.

Suum cuique incommodum ferendum est, potius quam de alterius commodis detrahendum. Each one must suffer his own inconvenience rather than take away the convenience of another. See 4 Bl Comm 31.

suum cuique tribuere. Unto each shall be rendered that which is his.

suus. His own.

s. v. An abbreviation of **sub voce.**

SW4. An abbreviation of a kind found in descriptions of real estate according to the government survey, standing for the Southwest Quarter, whether of a section or a quarter section of land.

swale. A depression in the ground, often wet or marshy. 56 Am J1st Water § 76.

swamp. Verb: To overcome; to overwhelm. To sink because filled with water. Noun: A marsh; a tract of wet land, usually partially covered by shallow waters. An area of land which is wet or marshy because depressed so as to receive the flow of surface waters or because of underground waters coming to the surface in spring. 56 Am J1st Water § 7.

As distinguished from overflowed lands, swamp lands are lands which require drainage to dispose of needless water or moisture on or in the lands, in order to make them fit for successful and useful cultivation. *State ex ref. Ellis v Gerbing*, 56 Fla 603, 47 So 353.

swampland. See **swamp.**

swap. A trade or exchange of property. 30 Am J2d Exch P § 1.

swear. To put a person under oath, that is, to administer an oath. To take an oath, that is, to put one's self under oath. To take God's name in vain; to curse.

As the word is used in the law of perjury, to swear means to state a fact or facts under the sanctity of an oath or affirmation administered by some duly qualified officer having authority to administer the oath in the particular proceeding or investigation in which the statement of the affiant is to be made. *State v Dallagiovanna*, 69 Wash 84, 124 P 209.

See **cursing; false swearing; oath; public swearing.**

swear in. To administer an oath to a person; to administer the oath of office to a person appointed to that office. *Thalheim v State*, 38 Fla 169, 189, 20 So 938.

See **oath of office**.

swearing the peace. Making a statement under oath of facts warranting the granting by the court of a *supplicavit*.

See **supplicavit**.

swearing witness. Putting a witness under oath. 58 Am J1st Witn § 549.

sweatbox. A prolonged and unremitting questioning of an accused, especially when accompanied by deprivation of refreshment, rest, or relief, for the purpose of extorting a confession from him. 29 Am J2d Ev § 550.

sweat cloth. A facetious expression for a gaming table, especially one used for throwing dice. *United States v Smith* (CC Dist Col) Cranch cc 659, F Cas No 16329.

sweating. The nefarious practice of abusing prisoners or persons suspected of possessing information to force them to confess or to tell what they know.

See **sweatbox; third degree**.

sweepstakes. A co test, especially a horse race, or game of chance in which the winner "sweeps in" or takes all the stakes wagered.

As defined by the American racing rules, a sweepstakes or stake is a race publicly declared open to all complying with its conditions, for which the prize is the sum of the stakes which the subscribers agree to pay for each horse nominated; and, if an additional sum of money, cup, plate, or other reward is offered to the winner, the race is still a sweepstakes, whatever may be the name given to such addition. Three subscribers, unless otherwise stipulated in its conditions, make a sweepstakes, and the race is not void so long as there is a horse qualified to start. *Stone v Clay* (CA7 Ill) 61 F 889, 890.

sweet cider. A nonintoxicating beverage made from the juice of apples.

swein. A freeholder in one of the king's forests. See 3 Bl Comm 72.

sweinmote court. A forest court held three times in each year before the verderors of the forest as judges and with sweins or freeholders of the forest as jurors, to inquire into grievances committed by forest officers and to try presentments certified from the court of attachments. See 3 Bl Comm 72.

swell. Verb: To increase in volume or size. To cause an increase, e.g. an increase in the damages for an injury. To be filled with emotion or the sense of one's own importance. Noun: A wave, particularly a large wave.

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swimming pool. A pool, especially an artificial, pool of water for the immersion of human beings; in plain words, a place for swimming. *Gopalangio v Chicago*, 23 111 2d 570, 179 NE2d 663, 92 ALR2d 1276. Sometimes a public place. 4 Am J2d Amuse § 50.

swindler. One who swindles.

See **swindling**.

swindling. The acquisition of property or an instrument representing a valuable right by means of some device or fraudulent representation with intent to appropriate such property or instrument or to destroy or impair the right of the owner therein. 32 Am J2d False P § 2.

As the words "swindling" and "cheating" are ordinarily used, they import a fraudulent causing of pecuniary or property loss. See *United States v Cohn*, 270 US 339, 346, 70 L Ed 616, 619, 46 S Ct 251.

The word is of German origin and of indefinite meaning. It does not import an indictable offense and is held to mean no more than the word "cheating," which does not impute a crime. *Stevenson v Hayden*, 2 Mass (2 Tyng) 406, 408.

The word has no legal or technical meaning, but it commonly implies that there has been recourse to petty and mean artifices for obtaining money, which may or may not be strictly illegal. The disappointed and vexed creditor not infrequently will apply the term "swindler" to a delinquent debtor, and an absconding debtor is not infrequently spoken of as having swindled his creditors. Hence the word does not per se import a crime. *Cunningham v Baker*, 104 Ala 160, 171, 16 So 68.

swine. Another term for hog.

swinging claim. The act of the owner of a mining claim in appropriating ground not within the limits of his claim. 36 Am J1st Min & M § 89.

swinging door. See **revolving door**.

switch. Verb: To change course. To change opinion or preference. To change the position of something. To move railroad cars from one track to another or from one place in a train to another place in a train. Noun: An instrumentality for opening or closing an electric circuit. *Thomson-Houston Electric Co. v Nassau Electric R. Co.* (CA2 NY) 107 F 277. A switch track of a railroad. A section of railroad track which may be moved a short distance by a lever so as to permit a train or cars to move from such track to another track.

See **flying switch; frog; gravity switch; kicking cars; running switch; split switch.**

switch box. A receptacle for electric switches, usually placed on a wall. 43 Am J1st Pub Util § 41.

switch connections. Switches available for moving the cars of one railroad line to another railroad line.

switch engine. A locomotive used only for switching and purposes incidental to the maintenance and operation of a railroad yard.

The distinction between a road engine and a switch engine, as they are known in railroading, is this: The road engine has a pilot in front. A yard or switch engine has a footboard, both front and rear, upon which the brakemen and switchmen step and stand while switching cars. A road engine is heavier, too heavy for switching conveniently and has no footboards. *Prosser v Montana Cent. R. Co.* 17 Mont 372, 43 P 81.

switching operations. See **switch; switching service.**

switching service. Also called transfer service,—the service rendered by a railroad company in switching cars for special benefit of shipper or consignee, either preceding or following a transportation service.

The term applies only to a shipment on which legal freight charges have already been earned, or are to be earned. It is an incident to a line haul and may be rendered preceding the line haul, during a line haul, as in transferring cars to a connecting road, or after the end of the line haul. *Cummings Sand & Gravel Co. v Minneapolis & St. Louis Railroad Co.* 182 Iowa 955, 166 NW 354.

Use of a locomotive to push cars from an industrial plant along main line tracks of another railroad company running through a city to the company's own switchyards does not constitute "switching operations," excepted from the operation of the

statute requiring a lookout ahead on locomotives. *Alabama G. S. R. Co. v Brookshire* (CA6 Tenn) 166 F2d 278, 1 ALR2d 612.

switchman. A railroad employee who operates switches. 35 Am J1st M & S § 435.

switch stand. An upright piece of metal upon which the lever which operates a railroad switch is mounted.

switch target. A device so adjusted to a railroad switch stand that the switch cannot be opened or closed without shifting the targets, the white to a right angle position to the main track when the switch is closed, and the red to a similar position when the switch is open. *Chicago, Indianapolis & Louisville Railway Co. v Barker*, 169 Ind 670, 83 NE 369.

switch track. A railroad track used for switching cars as incidental to a regular train haul, also made use of at times for loading, unloading, and storing cars. 44 Am J1st RR § 231.

See **sidetrack**.

swoon. To faint.

sword. A hand weapon having a long sharp blade. A deadly weapon. 56 Am J1st Weap § 3.

sword cane. A sword carried in a walking stick or cane; a deadly weapon. Anno: 30 ALR 816.

sworn. See duly sworn; legally sworn; mainsworn; swear. sworn copy. A copy proved by oral evidence to have been compared with the original document and to correspond exactly therewith. Verified under oath.

See **certified copy**.

sworn evidence. Testimony given under oath.

An affidavit stating facts of which the affiant purports to have knowledge is "sworn evidence." See *Ex parte Germain*, 258 Mass 289, 298. 155 NE 12, 15.

sworn to. Verified before a proper officer. *Hocking Power Co. v Harrison*, 20 Ohio App 135, 139, 153 NE 155, 157. Stated under oath.

syb and som. (Saxon.) Peace and security.

syllabi. Headnotes of reported cases. 20 Am J2d Cts § 77.

See **headnotes**.

syllabis et verbis. See **in syllabis et verbis**.

syllabus. Singular of **syllabi**.

syllabus rule. The rule that the syllabus of a

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decision, as printed in the cases contained in the state reports, alone constitutes the law of the case. *Walsh v E. G. Shinner & Co.* (CA3 Del) 20 F2d 586. Such rule is established in Ohio as a rule of court applicable to the decisions of the Supreme Court of Ohio, *Baltimore & O. R. Co. v Baileeie*, 112 Ohio, St 567, 148 NE 233.

syllogism. A logical reasoning, consisting of a major premise, a minor premise and a conclusion. For example: All men are human; Smith is a man. Therefore Smith is a human being.

Every action at law to redress a wrong or enforce a right, if properly instituted, is a syllogism of which the major premise is the proposition of law involved, the minor premise is the proposition of fact, and the judgment the conclusion. *Lamphear v Buckingham*, 33 Conn 237.

sylva. A wood.

sylva caedua. Same as **silva caedua**.

sylvestres. Frequenters of wooded land. See 2 Bl Comm 39.

symbol. A mark, object, or letter that stands for something, such as © standing for copyright or a ditto mark indicating a repetition. 1 Am J2d Abbr § 9; 18 Am J2d Copyr § 58.

symbolic delivery. A transaction wherein physical custody is retained by the party who in the reality of the situation should not have possession. A constructive change of possession. 15 Am J2d Chat Mtg § 137. A delivery of goods of such a nature or so situated as to make actual manual delivery impossible. 24 Am J2d Frd Conv § 43. The act of a purchaser or mortgagee of a chattel in merely touching the chattel and declaring his ownership of it. *Sloan v National Surety Co.* 74 App Div 417, 77 NYS 428. The delivery of the key to a warehouse containing the subject matter in question; the delivery of a bill of lading or warehouse receipt in lieu of the property itself. 41 Am J1st Pldg & Col § 14; 56 Am J1st Wareh § 39. The completion of a gift of property of such nature that an actual manual delivery is impossible, such as an unequivocal declaration of gift, accompanied by a delivery of the only means by which possession of the article can be obtained, by delivery of an instrument making an appropriation of the property to the donee, or other act indicating unmistakably an intent to transfer the property to the donee. 24 Am J1st Gifts § 27.

symbolic levy. A levy of a writ of attachment without taking actual possession of the property, as in the case of a levy upon a judgment. *Edwards v Tracy*, 203 Iowa 1083, 212 NW 317.

See **paper levy**.

symbolic possession. The constructive possession of goods which is exercised by a person who holds a warehouse receipt or other indicia of their ownership.

symmetry. Harmony as between parts of a structure. Correspondence of parts in shape and size.

symbolum animae. The symbol of the soul. See 2 Bl Comm 425.

sympathetic illness. An illness resulting from a mental or emotional disturbance caused by the observance of the suffering of another from injury or illness. 52 Am J1st Torts § 70.

sympathetic strike. A strike in support of another existing strike of other employees. Anno: 83 ALR 458; 71 L Ed 261.

A strike instigated in aid of a secondary boycott is such a strike. In essence it is a threat to inflict damage upon the immediate employer, between whom and his employees no dispute exists, in order to bring him against his will into a concerted plan to inflict damage upon another employer who is in dispute with his employees. *Duplex Printing Press Co. v Deering*, 254 US 443, 474, 65 L Ed 349, 360, 41 S Ct 172.

synagogue. A place used by Jews for religious worship and study. *Olhack v Temple Anshe Sholom*, 184 Misc 1071, 56 NYS2d 598.

synchronize. To adjust the movement of parts of a machine so that they relate properly, one to the other.

syndic. A corporate agent. A trustee appointed to represent the creditors of the estate of an insolvent person under the law of Louisiana. *Bank of Tennessee v Horn* (US) 17 How 157, 15 L Ed 70.

The word appears in Spanish-American grants but is not contained in the recapilacion or official compilation of the laws of the Indies. The Spanish Dictionary of the Academy, and the French authors on Jurisprudence, agree in defining it to mean the person charged with the care, defense, and advancement of the interests of a community. In France, the trustee who holds the property of a bankrupt, is styled "le syndic." See *Strother v Lucas* (US) 12 Pet 410, 442, note, 9 L Ed 1137, 1150, note.

syndicalism. Any doctrine or precept advocating, teaching, or aiding and abetting the commission of crime, sabotage, or unlawful acts of force and violence or unlawful methods of terrorism, as a means of accomplishing a change in industrial ownership or control, or effecting any political change. *Burns v United States*, 274 US 328, 71 L Ed 1077, 47 S Ct 650.

syndicate. An association of individuals formed for the purpose of conducting and carrying out some particular business transaction, ordinarily of a financial character, in which the members are mutually interested. *Hathaway v Porter Royalty Pool*, 296 Mich 90, 295 NW 571, 138 ALR 955, and 296 Mich 733, 299 NW 451, 138 ALR 967. Sometimes but not necessarily a partnership. 40 Am J1st Partn § 3. A system, plan or arrangement whereunder the writings of a columnist are distributed to newspapers throughout the country for publication.

syngraph. Singular of **syngrapha**.

syngrapha. A term of the canonists for what the lawyers called "chirographa."

See **chirographa**.

synod. A church board. The council of a religious society. *Roshi's Appeal*, 69 Pa 462 (German Reformed Church). An intermediate governing body or judicatory of a Protestant church, particularly a Presbyterian church.

There are in the Presbyterian system of ecclesiastical government, in regular succession, the presbytery over the session or local church, the synod over the presbytery, and the general assembly over all. These are called, in the language of the church organs, "judicatories," and they entertain appeals from the decisions of those below, and prescribe corrective measures in other cases. *Watson v Jones* (US) 13 Wall 679, 727, 20 L Ed 666, 676.

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synonym. A word which expresses the same, or much the same, idea as another.

synopsis. A summary of the contents of an article.

See **syllabi**.

syphilis. An infectious venereal disease, having severe consequences if not treated successfully. *Beard v Royal Neighbors*, 53 Or 102, 99 P 83.

syphilis test. A test of the blood or other content of the body by chemical analysis to determine the existence of syphilitic infection. 23 Am J2d Dep § 226.

See **Wasserman test**.

syrup. A thick sweet liquid; a heavy solution of sugar in water. An article of food for table use. *McDermott v State*, 143 Wis 18, 126 NW 888, revd on another point 228 US 115, 57 L Ed 754, 33 S Ct 431.

system. Plan or arrangement, particularly in conducting an operation. An organization.

system of railroad. See **railroad system.**

systolic pressure. Blood pressure. A matter of significance in reference to the employment of a lie detector.
See **lie detector.**