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THE
POCKET LAW-LEXICON
EXPLAINING
TECHNICAL WORDS, PHRASES, AND MAXIMS
OF THE
ENGLISH, SCOTCH, AND ROMAN LAW.
TO WHICH IS ADDED
A COMPLETE LIST OF LAW REPORTS, WITH
THEIR ABBREVIATIONS.
SECOND EDITION
REVISED AND ENLARGED
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PREFACE TO THE SECOND EDITION.

It has been my endeavour in this Lexicon to give, so far as is compatible with the limited space at my command, an adequate definition or explanation of all words and phrases used in English law, with the addition of a considerable selection of the most important terms in the laws of Scotland and Rome. An apology may be needed for the frequent use I have made of cross-references; but I was forced by considerations of bulk to adopt this alternative, or to omit much which it seemed desirable to insert. To the literal translations of the Latin maxims I have added illustrations in all cases where the application did not appear to be self-evident.

A full index of the abbreviations used for reference to the various law reports of the United Kingdom, with the periods over which they respectively extend, will be found at the end of the volume.
The corrections and additions made in this edition, which are so considerable as almost to constitute it a new work, have been brought down to the present date, so as to include the Statutes of 1883, and the Rules of the Supreme Court just issued.

I desire to express my obligation to Wharton's Law Lexicon, Bell's Digest of Scotch Law, and Sweet's Dictionary of English Law, to which I would refer the student for fuller information.

HENRY G. RAWSON.

23, OLD SQUARE, LINCOLN'S INN

December, 1883.
THE STUDENTS' POCKET LAW LEXICON.

A.

A, in the Roman system of ballot voting stood for "antiquo," and meant "I vote against the new proposition."

A and B lists. See Contributory.

A fortiori [by so much the stronger (reason)], all the more.

A mensa et thoro. See Divorce.

A posteriori, à priori. See Argument.

A prendre. See Profit.

A.R., anno regni, the year of the reign.

A verbis legis non est recedendum.—(From the words of the law there must be no departure, i.e., Acts of Parliament must be strictly construed.)

A vinculo matrimonii. See Divorce.

Ab antiquo, from ancient (time).

Ab assuetis non fit injuria.—(From things to which we are accustomed no legal wrong can arise.) See Acquiescence.

Ab initio, from the beginning. See Trespasser.

Abactor (Rom. law), a cattle stealer.

Abandonment, in the law of marine insurance signifies relinquishment to the underwriters by a person insured of whatever may be saved of the subject of insurance. (2) Surrender by a debtor of his property for the benefit of his creditors. (See Cessio.) (3) Of a railway, cessation from making or working it; for which a company must obtain leave from the Board of Trade. (4) The criminal offence of abandoning or exposing children under two years of age.

Abandon, or Abandun, anything abandoned.

Abatement, (lit. a making less), is used (1) of Freehold. See Abator; (2) of Nuisances, i.e., removal; (3) of Debts or Legacies, i.e., reduction of the amount where there is not sufficient to pay the whole; (4) of Litigation, i.e., the termination
of an action by death of a party or change of interest, *pendente lite*. An action is no longer abated by the marriage, death, or bankruptcy of any of the parties if the cause of action survive or continue. See R. S. C. 1883, Ord. xvii.; (5) of *Pleas in abatement*. See *Dilatory*; (6) as equivalent to *Rebate* (q. v.) in commerce; and (7) of a *Badge* in coat-armour, also called *Rebatement*, indicating dishonour of some kind.

**Abator, or Abater**, one who abates a nuisance. (2) One who enters into a house or land vacant by the death of the former possessor, and not yet taken possession of by his heir or devisee. See *Disseisin, Intrusion.*

**Abatuda, or Abatude**, anything diminished. *Moneta abatuda* is money clipped and so diminished in value.

**Abavus** (Roman law), a great grandfather’s father. See *Atacus*.

**Abbreviate** of Adjudication (Sc.), an abstract of the decree of adjudication, containing the names of the debtor and creditor, the lands adjudged, and the amount of the debt.

**Abbreviatio Placitorum**, an abstract of ancient pleadings prior to the year-books.

*Abbreviationum ille numeros et sensus accipiendus est, ut concessio non sit inanis.*—(In abbreviations, the number and sense is to be so interpreted, that the grant be not made void.)

**Abbreviatione**, a short draft.

**Abbroach**, to monopolize goods or forestall a market.

**Abdicate**, to renounce the throne or government; (2) (Roman law), to disinherit.

**Abduction** in the criminal law is the forcible or fraudulent taking away of (i.) women or children; (ii.) voters. (2) It is also an offence against the civil law to abduct a man’s wife or ward.

**Abearance**, carriage or behaviour.

**Abeced**ed, satisfied.

**Aberemudr**, deliberate murder, as distinguished from the less heinous crime of manslaughter or chance medley.

**Abet, Abettor**, one who being present or at hand incites another to commit a crime; he is a principal in the second degree. See *Principal*.

**Abeyance**. An estate or right is said to be in abeyance, or *in gremio legis* (in the bosom of the law), when there is no person presently entitled to it. The fee simple in the glebe of a church is in perpetual abeyance.

**Abishering**, or *Abishersing*, quit of amercements. It originally signified a forfeiture. Where this word is used in a grant or charter, the persons to whom the grant is made have
the forfeitures and amercements of all others, and are themselves free from the control of any, within their fee.

Abjudicate, to give away or transfer by judgment.

Abjuration, a forsaking or renouncing by oath. Now obsolete. In the old law it signified (1) an oath taken by a person who had claimed sanctuary, to forsake the realm for ever; (2) an oath by which members of parliament and public officials were obliged to abjure or renounce the Pretender.

Ablocation (Roman law), a letting out to hire for money.

Abortion, a miscarriage, or the premature expulsion of the contents of the gravid uterus, before the term of gestation is completed. To procure abortion is a felony punishable by penal servitude for life. (See 24 & 25 Vict. c. 100, s. 58.)

Abridgment, a digest of the law. The principal are Brooke’s, Fitzherbert’s, Rolle’s, Comyn’s, Viner’s, and Bacon’s. The more recent ones are called Digests, e.g., Fisher’s.

Abridgment of Damages, the right of the Court to reduce the damages in certain cases.

Abrogate, to annul or repeal.—See Leges posteriores.

Abscond, to leave one’s usual residence in order to avoid legal proceedings. See Act of Bankruptcy and the Absconding Debtors Act, 1870.

Absence, non-appearance. A decree is said to be made in absence where a party to the action does not appear. Absence beyond seas, i.e., from the United Kingdom and the adjacent (including the Channel) islands, was a disability (q. v.), and still in some cases entitles a person to an extension of time for pleading or appealing. See Mercantile Law. Absence in the abstract may be distinguished as (1) necessary, as in banished or transported persons. (2) Necessary and voluntary, as upon the account of the commonwealth, or in the service of the church. (3) Probable, as that of students on the score of study. (4) Entirely voluntary, on account of trade, and the like. (5) Absence cum dolo et culpa, as not appearing to a writ, subpoena, citation, &c., or to delay or defeat creditors, or avoid arrest, either on civil or criminal process.

Absolute, complete, unconditional, (e.g., covenant), not relative. A rule absolute is an order which can be forthwith enforced in contradistinction to a rule nisi, which commands the opposite party to appear on a day therein named, and show cause why he should not perform the act, or submit to the terms therein set forth. In default of his appearance or showing
good cause the rule is made absolute. By R. S. C. 1883, Ord. LIII, r. 3, applications for a rule nisi in an action and in certain other specified proceedings are no longer to be made.

Absolute Law, the true and proper law of nature, which is immutable in theory, but not in application.

Absolute Warrandice (Sc.), a warranting or assuring of property against all claims whatever, by which warranty the grantor becomes liable for every defect in the thing granted.

Absolvitor (Sc.), an acquittal; a decree in favour of the defender in any action.

Absque hoc (without this), technical words of exception made use of in a special traverse. Abolished by C. L. P. Act, 1852.

Absque impletione vasti (without impeachment of waste).

Absque tali causa (without such cause): formal words in the now obsolete replication de injuriis.

Abstention, keeping an heir from possession. (2) The tacit renunciation of a succession by an heir.

Abstract of Title, an epitome of the evidences of ownership, a document containing a sufficient summary of the deeds which show the nature of a person's right to a given estate, together with any charges or circumstances in anywise affecting it. A perfect abstract should show that the owner has both the legal and equitable estates at his own disposal perfectly unencumbered. In conditions of sale a "perfect" abstract means one as perfect as the vendor has, at the time of delivery, in his actual or constructive possession. An abstract in chief is one made from the original document or a copy of it, and not from a recital of it in another document.

Abstracted multures. See Action of.

Abundans cautela non nocet.—(Extreme care does no mischief.)

Abuse of distress, using an animal or chattel distracted, which makes the distrainer liable as for a conversion (q. v.).

Abuse of process, is when a person through the malicious and improper use of some regular legal proceeding obtains some advantage over his opponent.

Abutalls, or Abbuttals, the boundaries of any piece of land on every side, which are usually given in any conveyance of it, for purposes of description and identification.

Accapitare, to pay relief to lords of manors. Capitali domino accapitare, is to pay a relief, or homage, to the chief lord on becoming his vassal.

Accapitum, money paid by a vassal upon his admission to a feud or holding; the relief due to the chief lord.

Accedas ad curiam (go to the Court), was an original writ
to the sheriff, issued out of Chancery, where a man had received false judgment in a Hundred Court or Court Baron, or justice had been delayed.

**Accedas ad vicecomitem (go to the sheriff).** Where the sheriff had the writ called *pone* delivered to him, but suppressed it, this writ was sent to the coroner, commanding him to deliver a writ to the sheriff.

**Acceleration,** the shortening of the time for the vesting in possession of an expectant interest, by the surrender, merger, or extinguishment of a preceding estate or interest.

**Acceptance.** A person accepts a bill of exchange drawn upon him by writing his signature across it, with or without the word "accepted": he thereby undertakes to pay the bill when due, and is the person primarily liable. Before acceptance he is called the *drawee*; after it, the *acceptor.* An *Acceptance may be general (absolute), qualified, i.e., conditional or partial, or local (special), i.e., undertaking to pay at one specified place only.* A bill is *dishonoured* by non-acceptance, and thereupon an immediate right of action accrues to the holder. *Acceptance for honour supra protest* is where a person, not already liable thereon, after the bill has been *protested* (q.v.), accepts it for the honour of a party who is liable, or of him for whose account it was drawn. See 45 & 46 Vict. c. 61. See *Drawer, Indorsement, Reference.*

**Acceptilation** (Sc.), the verbal extinction of a verbal contract, with a declaration that the debt has been paid when it has not; the acceptance of something merely imaginary in satisfaction of a verbal contract.

**Access,** approach, or the means of approaching. The presumption of a child’s legitimacy is rebutted, if it be shown that the husband had not access to his wife within such a period of time before the birth, as admits of his having been the father. (2) See Light.

**Accessory,** or **Accessory,** one who is not the actual perpetrator of a felony, but is in some way concerned therein. He may be an accessory *(a) before the fact,* e.g., by inciting or counselling, or *(b) after the fact,* by relieving or assisting the felon. *(a)* stands in the same position in the eye of the law as if he were the principal. See Principal.

**Accession,** property by, is a doctrine grounded on the right of occupancy, and derived from the Roman law: it is *(1)* where a thing belonging to one becomes the property of another by being added to or incorporated with a thing belonging to the latter. See *Alluvion, Fixtures.* (2) Where one makes a new
thing out of materials belonging to another, and thereby acquires
the ownership thereof, subject to giving compensation to the
former owner. This is more properly called *specificatio*. (3)
Accession to a dignity means coming into enjoyment.

*Accessorium sequitur sum principale.*—(That which is the
accessory or incident follows, *i.e.*, goes with, its principal; as,
*e.g.*, in the case of crops or fixtures, which go as a rule with the
land they are on.)

**Accident**, an equitable plea for relief, now admitted in all
the Courts of Justice. See *Mistake*.

**Accite**, to summon.

**Accommodation Bill**, is one to which the accommodating
party puts his name, without receiving any consideration, for
the purpose of accommodating some other party who desires to
raise money on it, and who is to provide for the bill when due.

**Accommodation Land**, is that acquired for the purpose
of being added to other land for the improvement of the latter.

**Accommodation Works**, works which a railway company
is required to make and maintain for the accommodation of the
owners or occupiers of land adjoining the railway.

**Accord**, an agreement between two (or more) persons, one of
whom has a right of action against the other, that the latter
should do or give, and the former accept, something in satisfac-
tion of the right of action. When the agreement is executed,
and satisfaction has been made, it is called *accord and satis-
faction*, and operates as a bar to the right of action.

**Account** or **Accompt**, a detailed statement of a series of
receipts (credits) and disbursements (debts) of money, which
have taken place between two or more persons. Accounts are
either—(1) *open* or *current*, where the balance is not struck, or
is not accepted by all the parties; (2) *stated*, where it has been
expressly or impliedly acknowledged to be correct by all the
parties; or (3) *settled*, where it has been accepted and dis-
charged. To make a *rest* in an account, or an *account with rests*,
is at stated periods to strike a balance, so that interest may
thenceforward be computed on the sum actually due, not merely
on the original principal or debt. See *Compound Interest, Sur-
charge, Clayton's Case*. The accounts kept in the Paymaster-
General's Office of funds in Chancery are either *causewise*, *i.e.*, the
general accounts of money to the credit of each particular
cause or action; or *separate*, *i.e.*, when they have been carried
over to the account of special individuals.

**Accountable receipt**, a written acknowledgment of the
receipt of money or goods to be accounted for by the receiver,
as distinguished from an ordinary receipt or, acquittance for money paid in discharge of a debt.

Accountant-General. See Paymaster-General.

Accountants to the Crown, certain persons (e.g., brewers) and officers (see 13 Eliz. c. 4) accountable to the Crown for moneys received by them; the Crown has the first claim on their lands for such moneys.

Accretion, addition to property without the owner’s act, e.g., by birth of young of animals, alluvion, or dereliction (q.v.).

Accroach, to attempt to exercise royal power.

Accrual, Accruer. A right accrues when it vests in a person, especially when it arises without his active intervention, e.g., by lapse of time, or determination of a previous right. For cases of accrue, see Accession, Alluvion, Survivorship.

Accumulation. See Thellusson Act.

Accumulative sentence, one passed before the first has expired, to commence upon its expiration.

Accusare nemo se debet.—(No one is bound to accuse himself.)

Acknowledgment, written and signed, of a debt, &c., is a bar to the Statutes of Limitation. (2) Acknowledgment by a married woman of a deed disposing of her interest in land is required by 3 & 4 Wm. IV. c. 74. (3) Acknowledgment before witnesses, by a testator, of his signature already affixed to the will, is equivalent to signature in their presence.

Acquest or Acquit, property obtained by purchase or gift.

Acquiescence, is where one with full knowledge of his right to impeach a transaction or enforce a right neglects to do so for such a length of time that the other party may fairly infer that the right has been waived. It may be express or implied.

Acquittal, a release or discharge, especially by verdict of a jury.

Acquittance, a release or written discharge of a sum of money due. See Accountable Receipt.

Act in Pais, a thing done out of court, and not a matter of record.

Act of Bankruptcy, one of certain acts of a debtor declared by the law to be evidence of insolvency, and on which is founded the adjudication of bankruptcy (q.v.). Such are the concealing of himself to avoid payment (see Abscond), fraudulent conveyance of his property, notice of suspension of payment, and the declaration of inability to pay his debts. See the Bankruptcy Act, 1883, c. 52, s. 4.

Act of Curatory (Sc.), the order by which a curator, or guardian, is appointed by the Court.
Act of God, an inevitable event, one which occurs without human intervention, and for which, therefore, no one is to be blamed, e.g., death, flood, or tempest. On this ground insurers and carriers are released from liability for loss, and a person is in some cases discharged from his covenant or contract.

Act of Grace. The act so termed in Scotland was passed in 1696; it provides for the maintenance of debtors imprisoned by their creditors. It is applied in England to insolvent acts, and to general pardons granted at the beginning of a new reign, or on other great occasions.

Act of Parliament, an enactment of the Legislature. It may be applicable either to the whole of the United Kingdom, or only to a part. See Statute.

Act of Settlement, 12 & 13 Wm. III. c. 2, limiting the crown to the Princess Sophia of Hanover, and to the heirs of her body, being Protestants.

Act of Uniformity, the 13 & 14 Car. II. c. 11, which enacted that the Book of Common Prayer, then recently revised, should be used in every parish church, and other places of public worship. See now 34 & 35 Vict. c. 37, and 35 & 36 Vict. c. 35.

Act of Warding (Sc.), a warrant to imprison a debtor.

Act on Petition. A summary mode of proceeding to obtain an adjudication on questions in Divorce, Probate, and Ecclesiastical matters.

Actio ad exhibendum (Roman law), an action instituted for the purpose of compelling production (q.v.).

Actio bona fidei (Roman law), one which the judge decided according to Equity, acting as arbiter with a wide discretion.

Actio commodati contraria (Roman law), one by a borrower against a lender, to enforce the contract.

Actio conductio indebiti (Roman law), one for the recovery of a sum of money paid by mistake.

Actio depositi contraria (Roman law), one which a depositary has against a depositor, to compel him to fulfil his engagement.

Actio depositi directa (Roman law), one brought by a depositor against a depositary, to get back the thing deposited.

Actio ex conducto (Roman law), one by a bailor for hire against a bailee, to compel him to deliver the thing hired.

Actio exercitoria (Roman law), one brought against the owner of a ship (Exercitor) who employed his slave to navigate her, on contracts made by the slave in such capacity.
Actio institoria (Roman law), a similar action against the owner of a shop served by his slave. In both cases the slave was held to contract only as representing the master.

Actio personalis moritur cum persona.—(A personal action dies with the person.) A maxim meaning that rights of action arising out of torts are destroyed by the death of the person injured or injuring. By recent legislation (see 27 & 28 Vict. c. 115) this has been altered, and probably the only application of the maxim now is to torts to the reputation.

Actio paenalis in heredem non datur, nisi forte ex damno locompletior heres factus sit.—(A penal action is not given against an heir, unless such heir is benefited by the wrong.)

Actio pro socio (Roman law), an action by which a partner could compel his co-partners to perform the partnership contract.

Actio redhibitoria (Roman law), one brought by a purchaser to recover the price, for breach of implied warranty on the sale.

Action, a proceeding taken in a court of law. By the Judiciary Act it is declared not to include criminal proceedings. Apart from that Act its chief classifications are these:—(1) (a) civil, to enforce a right; (b) criminal, to punish an offender. (2) (a) in rem (against a thing), to bind a thing; (b) in personam (against a person), to bind a person. This distinction now survives only in the Admiralty Court. (3) (a) real, (b) mixed, and (c) personal. This distinction has been abolished by 3 & 4 Wm. IV. c. 27, and 23 & 24 Vict. c. 126. (4) (a) Rescissory, (b) ordinary. See Actions rescissory. (5) Popular, e.g., Qui tam actions (q. v.) (6) Ex contractu, those which arise out of contract, and ex delicto, those which arise out of tort (q. v.). See Actio personalis, Actiones nominatae.

Action of a writ, a phrase formerly used when a defendant pleaded that the plaintiff had no right to the writ sued upon, although it might be that he was entitled to another writ or action for the same matter.

Action of abstracted multures (Sc.), an action for multures or tolls against those who are thrilled to a mill, i.e., bound to grind their corn at a certain mill, and neglect to do so.

Action of adherence (Sc.), one by a husband or wife in case of desertion, to obtain restitution of conjugal rights.

Actionary (Fr. Actionnaire), a shareholder.

Actiones nominatae, writs for which there were precedents, as distinguished from Actiones innominatae. See Trespass.

Actions ordinary, all actions not rescissory.

Actions rescissory (Sc.), are (1) actions of proper improba-
tion, for declaring a writing false or forged; (2) actions of reduction—improbation, for the production of a writing in order to have it set aside or its effect ascertained, under the certification that the writing if not produced shall be declared false or forged; and (3) actions of simple reduction, for declaring a writing called for null until produced.

**Active, existing**; _e.g._ a debt, or use. **Active trust,** one which has a duty connected with it, as opposed to a passive trust. See _Bare._

**Actor,** a term borrowed from the Roman law to signify the person who has the active claim in a judicial proceeding, _e.g._, as plaintiff, claimant, or demandant under the old practice.

**Actor sequitur forum rei.**—(A plaintiff follows the court of the defendant.) A maxim of the Roman law importing that the plaintiff in an action must bring his action against the defendant in that country to the laws of which the defendant is amenable. But the possession of property in a country makes a person amenable to the laws of that country, even though he is a foreigner or resident abroad.

**Actore non probante reus absolvitur.**—(When the plaintiff does not prove his case the defendant is acquitted.)

**Actori incumbit onus probandi.**—(The burthen of proof lies on a plaintiff.)

**Acts of Court,** legal memoranda of the nature of Pleas, especially in Admiralty Courts.

**Acts of Sederunt,** ordinances or rules of the Court of Session in Scotland, corresponding to the "General Rules," made from time to time under statutory authority by our English Courts.

**Acts of Union.** With Wales, 27 Hen. VIII. c. 27, confirmed by 34 & 35 Hen. VIII. c. 26. With Scotland, 5 Anne, c. 8, and see 6 Anne, cc. 6 and 23. With Ireland, 39 & 40 Geo. III. c. 67.

**Actuary,** a registrar of a public body, a clerk; (2) one skilled in the business of insurance, the calculation of life interests, annuities, &c.

**Actus curiae (or legis) nemini facit injuriam.**—The act of the Court does wrong to no one.

**Actus Dei neminem gravabit** (or, nemini nocet).—The act of God prejudices no one. See _Act of God._

**Actus me invito factus, non est meus actus.**—(An act done by me against my will is not my act.) Thus the law presumes coercion by a prince over his subject, and by a husband (in general) over his wife.
Actus non facit reum, nisi mens sit rea.—(An act does not make a man guilty, unless he be so in intention.)

**Ad** colligenda bona, **Administration**, is granted where the estate is of a perishable or precarious nature, and regular probate or administration cannot be granted at once. See Administration.

**Ad diem** (at the day).

**Ad ea qua frequentius accidunt jura adaptantur.**—(The laws are adapted to those cases which most frequently arise.)

**Ad filum aequae**, to the thread or centre line of the stream.

**Ad filum viæ**, to the centre of the way or road.

**Ad finem**, abbrev. ad fin. (at, or near to the end).

**Ad idem** (tallying in the essential point, agreed).

**Ad infinitum** (without limit).

**Ad interim** (in the meantime.)

**Ad jura regis**, a writ which was brought by a clerk who had been presented to a royal living, against those who endeavoured to eject him to the prejudice of the king’s title.

**Ad longum** (at length).

**Ad proximum antecedens fiat relatio.**—(The relative should be referred to the next (or last) antecedent.)

**Ad questiones facti non respondent judices; ad questiones legis non respondent juratores.**—[(In trial by jury) the judges do not decide questions of fact, nor the jury questions of law; (except where the question of fact is preliminary to the decision of a question of law).]

**Ad quod damnum**, (1) a writ by which the owner of land over which a highway passes may obtain leave to divert it. (2) A writ issued to the sheriff before the Crown granted new liberties, e.g., fairs or markets, to inquire whether the public would be prejudiced. Both are now obsolete.

**Ad terminum qui preterit**, a writ of entry which lay for the owners of the reversion upon a lease, when the lease had expired.

**Ad valorem**, according to the value, e.g., a stamp or tax.

**Ad ventrem inspiciendum.** See Venter.

**Ac cordabilis denarii**, money paid by a vassal to his lord upon the selling or exchanging of a feud.

**Addictio** (Rom. law.), the giving up to a creditor of his debtor’s person.

**Addition**, the title, or place of abode of a person.

**Address for service.** A plaintiff’s writ of summons (q. v.), and a petition or summons under the Trustee Acts, must contain
an address where notice of future proceedings may be served by other parties.

**Ademption**, a revocation, or a taking away of a legacy. Where a testator having given a specific thing by his will alters or parts with it before his death, he *adeems* the legacy. See *Satisfaction*.

**Adjourn**, to put off the hearing to another day.

**Adjudication**, a judgment, or decision, *e.g.*, on claims of creditors. (2) That part of a docket of enrolment of a decree in Chancery under the old practice which set forth the order made by the Court. (3) Of *bankruptcy*, the declaring a debtor bankrupt. See *Bankrupt*.

**Adjuration**, a swearing or binding upon oath.

**Adjustment**, in the law of marine insurance, is the settlement of the amount to be received by the insured, and to be contributed by the several underwriters to the policy.

**Admanuensis**, one who swears laying his hand on the Testament.

**Admeasurement**, Writ of, (1) of *dower*, lay where a widow took or had assigned to her a larger dower than rightly belonged to her; (2) of *pasture*, lay where any one having common of pasture surcharged the common—to correct the excess in either case. See *Surcharge*.

**Adminicular evidence**, explanatory or in support.

**Administration**, (1) the process of adjusting, protecting, and satisfying (if there be sufficient assets for the purpose) the various claims upon an estate. Hence the *administrative*, as opposed to the *contentious*, jurisdiction of the Court. In paying debts the assets are taken in the following order:—(a) Personal estate not specifically bequeathed; (b) Real estate devised or ordered to be sold for payment of debts; (c) Real estate descended; (d) Ditto charged with payment of debts; (e) General pecuniary legacies; (f) Specific legacies, and real estate comprised in a specific or residuary devise; (g) Personal or real estate subject to a general power of appointment which has been actually exercised. For the order in which debts are paid, see *Debts*. (2) *Letters of administration* are granted either *generally*, or for a *limited* purpose or time; *e.g.*, (i.) *de bonis non* (scil. *administratis*), to complete administration of an estate; (ii.) *cum testamento annexo*, when there is no executor to carry out the testator’s will; (iii.) *durante minore aetate*, or *absentia*, where the sole executor is a minor, or out of the realm; (iv.) *ad litum*, to carry on an action.

**Administrator**, he to whom administration is granted of the
effects of a person dying intestate, or without appointing executors. See Administration.

Admiral, see Lord High Admiral.

Admiral of the Port of London, one of the styles of the Lord Mayor of London, by virtue of a charter granted in the third year of James I.

Admiralty, High Court of, has two divisions of its jurisdiction; (a) the Prize Court, and (b) the Instance Court. See those titles, and High Court of Admiralty.

Admission in pleading or evidence, acknowledgment that an allegation is true. By the Judicature Act all allegations in pleadings not specifically denied are admitted. By R. S. C., 1883, Ord. XXXII, any party to a cause or matter may before trial call on any other party to admit any document or fact specified; and in case of refusal or neglect to admit, the cost of proof will be thrown on the party so refusing, &c.

Admittance, giving possession of a copyhold estate. Formal admittance is usually made by the steward handing to the tenant a rod (see Verge), or other symbol, according to the custom. It may, however, be dispensed with.

Admittendo clerico, a writ of execution addressed to the bishop or his metropolitan, requiring him to admit and institute the clerk or presentee of the plaintiff.

Admittendo in socium, a writ for associating certain persons with justices of assize on the circuit.

Admonition, the lightest form of ecclesiastical censure.

Admortisation, the reduction of property in lands or tenements to mortmain, in the feudal customs.

Adnichiled, annulled, cancelled, made void.

Adolescence, the period between 12 in females and 14 in males till 21 years of age.

Adoption, an act by which a person appoints as his heir the child of another. There is not any law of adoption in this country. See Arrogatio. (2) The affirmation or acceptance of a contract which one is at liberty otherwise to repudiate.

Adpromissor (Roman law), an accessory to a promise, as guarantor. He was either a sponsor or fidépromissor (q. v.)

Adrogatio (Roman law), the adoption of an impubes, i.e., a male under 14, or a female under 12 years old.

Adscripti, or adscriptitii, glebe, a kind of slaves among the Romans, attached to and transferred along with the land which they cultivated.

Adstipulator (Roman law), an accessory party to a promise, who received the same promise, in whole or in part, as his prin-
cipal did, and could equally exact fulfilment, even after death of the principal.

Adulteration, the offence of mixing cheap or inferior substances with another substance, with the intent that the compound may be sold as pure and genuine.

Adulterine, the issue of an adulterous intercourse.

Adultery, is where a married person has connection with a person other than his or her wife or husband. Adultery by the husband is a ground for judicial separation, and in Scotland for divorce; but in England it is so only when combined with other offences (e.g., cruelty). Adultery by the wife is by itself ground for dissolution of marriage; it may also form the ground for a petition by the husband against his wife and her paramour for damages.

Adv. = adversus (against), also written v.; e.g., Doe v. Roe; denoting the respective positions of plaintiff and defendant in the title of an action.

Advancement, in conveyancing, means the payment of money before it actually vests or becomes due. Thus in wills and settlements there is usually contained a power for the trustees to advance, during minority, a portion of the fund to which, under the instrument in question, the infant would become entitled on attaining majority. A presumption of advancement arises where a father, or person in loco parentis, makes a purchase in the name of himself and a child, or of the child alone. The resulting trust (q. v.) is then rebutted.

Adventure, the sending to sea of a ship or goods at the risk of the sender.

Adventure, Bill of, a writing signed by a merchant, stating that the property in goods shipped in his name belongs to another, whose risk it is, with a covenant from the merchant to account to him for the produce.

Adversaria, rough memoranda, common-place books.

Adverse, see Possession.

Advertisements. To offer a reward for the return of lost or stolen goods, with an express or tacit promise not to make inquiries, is an offence punishable by fine of £50. (2) Advertisements of Queen Elizabeth, ordinances as to church ritual, which however never received the royal sanction, nor were in force except in the province of Canterbury.

Advocate, one who conducts or pleads a cause for another. (2) A person admitted to plead in the Court of Arches. Barristers being now allowed to plead therein without any previous admission, the distinction has ceased.
Advocate-General, the adviser of the Crown on questions of naval and military law. See Judge Advocate.

Advocate, Lord, the principal Crown Lawyer in Scotland.

Advocates, Faculty of, the bar of Scotland in Edinburgh.

Advocation (Sc.), a process of review in criminal cases, now rarely used.

Advowee, or Avowee, the person or patron who has a right to present to a benefice.

Advowee paramount, the sovereign, or supreme patron.

Advowson, the right of presenting to a church or ecclesiastical benefice whenever it becomes vacant. It is either appendant, i.e., annexed to some corporeal hereditament, e.g., a manor, by the grant whereof it passes; or in gross, i.e., belonging to an individual, and not so annexed. Advowsons are also divided into (1) presentative, (2) donative, and (3) collative. See those titles.

Ædificatum solo, solo cedit.—(That which is built upon the land goes with the land.)

Æfesn, the remuneration to the proprietor of a domain for the privilege of feeding swine in his woods.

Ægylde, or Agylde, uncompensated, unavenged.

Æquitas est correctio quædam legi adhibita, quia ab eâ abest aliquid propter generalem sine exceptione comprehensionem.—(Equity is a certain correction applied to law, on account of the general comprehensiveness of the latter, which does not allow of its dealing with exceptions.)

Æquitas est quasi æqualitas.—(Equity is as it were equality.)

Æquitas factum habet quod fieri oportuit.—(Equity considers that to have been done which ought to have been done; i.e., imputes an intention of performing an obligation where an act has been done which can be attributed to such an intention.) See Satisfaction.

Æquitas nunquam contravenit leges.—(Equity never contravenes the laws.)

Æquitas sequitur legem.—(Equity follows law.) See Equity.

Æstimatio capitis, fines for offences committed against persons, estimated according to their rank and quality: ordained by King Athelstane.

Affectus punitur licet non sequatur effectus.—(The intention is punished, although the consequence do not follow.)

Affeer, to assess amerciaments or fines by a jury in courts-leet.

Affidatus, a tenant by fealty, a retainer.
**Affidavit**, a written statement sworn before a person having authority to administer an oath, by a person called a deponent (q.v.): (1) of documents, or discovery, sets out the material documents then or formerly in deponent's possession; (2) of increase, sets out the extra expenses, e.g., counsel's fees, which do not appear on the face of the proceedings, and must be evidenced on oath before they can be allowed on taxation; (3) of plight, deposes that a will is in the same condition in which it was found at testator's death (Probate practice); (4) of means, that a judgment debtor has means to pay the debt, and so should be committed in default. And see Jurat.

**Affidavit to hold to bail.** On affidavit by plaintiff that defendant owes him £50 or upwards, and is about to quit England, and that plaintiff will thereby be materially prejudiced in the prosecution of his action, plaintiff may apply to a judge to hold defendant to bail.

**Affiliation**, the fixing any one with the paternity of a bastard child, and with the obligation to maintain it.

**Affinity**, relationship by marriage between the husband and the blood relations of the wife, and between the wife and the blood relations of the husband. See Consanguinity.

**Affirm**, to confirm a voidable contract. (2) To agree with the judgment of a lower Court. (3) See Affirmation.

**Affirmant**, a person who makes a solemn affirmation (q.v.) instead of taking an oath.

Affirmanti, non neganti, incumbit probatio.—(The proof lies upon him who affirms, not upon him who denies.)

**Affirmation**, a solemn declaration without oath. The privilege of affirming without an oath in judicial proceedings is now extended to all persons who object to take an oath.

**Afforce**, to increase the assize if the jury disagree.

**Afforest**, to turn into a "forest" (q.v.).

**Affranchise**, to make free.

**Affray**, the fighting of persons in a public place to the terror of Her Majesty's subjects.

**Affreightment, contract of**, is made with a shipowner for hire of his ship to carry goods. See Freight, Charter-party.

**Age**, formerly used as equivalent to majority; e.g., to come of age, non-age, terms which still survive. A male can legally marry (with the proper consents) at fourteen; a female at twelve. A child under seven cannot be held criminally responsible; and between seven and fourteen there is a presumption of ignorance or incapacity.
Agency, Deed of, one which creates a revocable and voluntary trust for payment of the settlor's debts.

Agent, one authorised by another (the principal) to do an act or transact business for him, and to bind his principal within the limits of that authority. An agent may be general, to do all business of a particular kind; or special, to do one particular act; and according to the scope of his authority is his power to bind his principal. See Ultra vires, Del credere.

Agentes et consentientes pari pande plecentur.—(Acting and consenting parties are liable to the same punishment.)

Age-prier, or prayer, an application that an action may be stayed until the applicant attains majority.

Aggravation, Matter of, is that which is ground for increasing the damages awarded for an injury, the damages when so increased being called exemplary (q. v.)

Agiler, an observer or informer.

Agist, Agistment, the feeding of other men's cattle on one's land for reward. This is Bailment (3) (q. v.). (2) The profit of such feeding. (3) The charging of lands with a certain payment towards maintenance of sea banks.

Agnation, kinship by the father's side, as distinct from consanguinity, or kinship by the mother's side.

Agnomen, a name derived from some notable personal circumstance, as the name Africanus, borne by the two Scipios on account of their victories over the Carthaginians.

Agreement, the concurrence of two or more minds in anything done or to be done. (2) A contract, especially one which is not under seal, i.e., sealed. If under seal it is called a deed. (3) The preliminary heads of a formal contract to be afterwards drawn up. Agreements may be executed, i.e., complete, performed; or executory, where something remains to be done by one or both of the parties.

Agricultural Holdings (England) Act, 38 & 39 Vict. c. 92, was designed to give agricultural tenants compensation for improvements on their holdings unexhausted at the expiration of the tenancy. The operation of the Act could, however, be excluded by agreement between landlord and tenant. It was consequently superseded by the Act of 1883, 46 & 47 Vict. c. 61, which, by s. 55, prevents the tenant from contracting himself out of his right to compensation.

Aids, (Auxilia) were originally free gifts from the tenant to his lord, but came afterwards to be regarded as a right. They were—(1.) to ransom the lord; (ii.) to make his eldest son a knight; (iii.) to portion his eldest daughter. (2) Extraordinary
grants to the Crown. (3) To aid is to remedy a defect in pleading by some subsequent proceeding, e.g., a verdict. (4) See Writ in aid.

Air. The right to a free access of air is the natural right of every one, interference with which by interruption or pollution, unless by virtue of an acquired easement (q.v.), is actionable.

Airway, a passage for the admission of air into a mine.

Albinatus jus. The droit d’aubaine in France (abol. 1791), by which the king was entitled to an alien’s property on his death.

Alia enormia (other wrongs). A declaration in trespass usually concluded thus:—‘‘and other wrongs to the plaintiff then did,’’ &c.

Aliamenta, a liberty of passage, open way, water-course, &c., for the tenant’s accommodation.

Alias (otherwise), a second or further writ, which was issued after a former writ had expired without effect. (2) Scil., dictus (called), a second name applied to a person where it is doubtful which of two or more names is his real name.

Alibi (elsewhere), a defence resorted to where the party accused, in order to prove that he could not have committed the crime with which he is charged, offers evidence that he was in a different place at the time the offence was being committed.

Alien, a person who is not a British subject, as opposed to (a) natural-born subjects, and (b) denizens (q.v.). An alien may by naturalization become, and obtain the privileges of, a British subject. By the Naturalization Act, 33 & 34 Vict. c. 14, certain disabilities of aliens were removed, and they were empowered to hold and dispose of property in all respects like British subjects; but they are still unable to own shares in British ships or to vote at elections. Aliens are so (i.) by birth (nīces), (ii.) by election. By the Prevention of Crime (Ireland) Act, 1882, s. 15, an Act of 1848 authorizing the removal of aliens from the realm was re-enacted for three years.

Alien ami, or amy (friend), a subject of a nation which is at peace with this country.

Alien enemy, a subject of a nation which is at war with this country.

Alienage, the state of an alien.

Alienate, or Aliene, to transfer property.

Alienatio rei prefertur juri accrescendi. — [Alienation is favoured (by the law) rather than accumulation.] See Perpetuity.

Alienation, a transferring of property to another. It is (a)
voluntary, or (b) involuntary, where one is deprived of property
by act of the law or of another, e.g., on bankruptcy. _Alienor_
is one who transfers to an _alienee_. See _Restraint_.

_Alieni juris_, under another’s authority. See _Sui Juris_.

_Alii per alium non acquiritur obligatio._—(One man cannot
incur a liability through another. [Unless the latter is his agent
duly authorized]).

_Aliment_ (Sc.), a fund for maintenance.—See _Alimony_.

_Alimony_, the allowance made to a wife out of her husband’s
estate for her support, either during a matrimonial suit, which
is called alimony _pendente lite_, or at its termination, when she
proves herself entitled to a separate maintenance, the fact of
marriage being established.

_Alio intuitus_, with another intent than that alleged, _i.e._, not
_bona fide._

_Alivud simulatum, aliud actum._—(One thing is pretended,
another thing done). See _e.g._, _Fraud on a power_.

_Aliunde_, from elsewhere, from another source, _e.g._, _proof_
_alivnde_.

_Allegans contraria non est audiendus._—(A person making con-
tradictory allegations is not to be listened to.)

_Allegans suum turpitudinem non est audiendus._—(A person
alleging his own infamy is not to be listened to.)

_Allegari non debuit quod probatum non revocator._—(That which,
if proved, would not be relevant, ought not to be alleged; _seil._ in
pleading.)

_Allegation_, a statement of fact made in a legal proceeding.
A plaintiff can only recover _secundum allegata et probata_, _i.e._,
according to the tenor of such of his allegations as he can duly
prove. See _Allegans_, _Allegati_.

_Allegiance_, obedience due from the subject to the sovereign.
It may be (a) natural, by birth; (b) acquired, by naturalization,
&c.; or (c) local, during residence in a country. The oath of
allegiance is still required from certain officers of the Crown.

_Allenarly_ (Sc.) _only_, a technical word restricting an estate.

_Aller san jour_, to go without day, _i.e._ to be finally dis-
misse from the Court, no further day being assigned for
appearance. Said formerly of a successful defendant.

_Allocation_, an allowance made upon accounts in the Ex-
chequer.

_Allocutio_, _facienda_, a writ allowing to an accountant
such sums of money as he has lawfully expended.

_Allocatur_ (it _is allowed_), the certificate of the allowance of
costs by the master on taxation.
Allocatur exigent. See Exigent.

Allocutus, the demand made of a prisoner, after verdict of guilty found against him, whether he has any reason to give why sentence should not be passed. It is entered on the record.

Alloarius, a tenant holding land on allodial tenure, i.e., not under any lord or superior. All land in England is held, in theory, of the Crown, and cannot therefore be allodial.

Allograph, a document not written by any of the parties thereto; opposed to autograph.

Allonge. If there be not room on the back of a bill of exchange to write all the indorsements, the supernumerary indorsements may be written on a slip of paper annexed to the bill and called an allonge.

Allot, to assign a share, e.g. of land on partition or inclosure, or in a company.

Allotment, (1) the thing (land or shares) allotted. As to Poor Allotments, see the Act of 1873. (2) The act of allotting. (3) Allotment note, a document by which a seaman stipulates for payment of part of his wages at stated intervals to persons therein named. A certain form is prescribed by the Merchant Shipping Act, 1854.

Allow, to admit as correct or valid, e.g. a demurrer (q.v.) or claim.

All Fours. A case is said to be on “all fours” with another when it agrees with it in the material points.

Alluvion, or Alluvio, land gained from the sea or a river by the washing up of sand and soil, so as to form terra firma. If the process be gradual and imperceptible, the new land belongs to the owner of that to which it is annexed and whereof it forms part; if sudden and considerable, the ownership is not changed. See Avulsion, Derelict lands, Aqua cedit solo.

Alsadia, formerly a cant name for Whitefriars, a district adjoining the Temple, and which possessed the privilege of sanctuary, or freedom from arrest, within its precincts; abolished 1697.

Alteration. An instrument is said to be altered when any erasure or addition is made to it so as to alter its sense or effect. A material alteration is one which alters the rights of parties under the instrument, or may do so.

Altius tollendi (scil. Jus, Roman law), the right to raise the height of one’s house to any extent one may think proper.

Amalgamation, the union of two incorporated companies or societies by one being merged in the other. See Companies
Act, 1862, s. 161; Life Assurance Companies Act, 1870, ss. 14, 15.

Amand, (Sc.) a fine or penalty.

Ambassador, a representative sent by one sovereign to another, with authority to treat on affairs of state. His person is protected from civil arrest, and his goods from seizure. His is the highest rank among diplomatic officials.

Ambidexter, (one who uses both hands) a juror who takes bribes from both parties to influence his verdict. See Embracer.

Ambigua responsio contra proferentem est accipienda.—(An ambiguous answer is to be taken against him who makes it.)

Ambiguis casibus semper praesumitur pro rege.—(In doubtful cases the presumption is always in favour of the crown.)

Ambiguity, doubtfulness, obscurity. There are two species of ambiguity (a) patent and (b) latent; (a) where there is an obvious omission or inconsistency on the face of the instrument: this may not be supplied or explained by extrinsic evidence, i.e., evidence not contained in the instrument itself; (b) where the instrument being apparently free from obscurity, a doubt arises in carrying it into execution; e.g. from a name used in it being applicable to two persons or things. In such case extrinsic evidence is admissible.

Amendment, a correction or alteration of any pleading or statement in a cause or matter. Since the Judicature Act amendments in pleadings may be made without leave in certain cases, and with leave in all cases. See R. S. C. 1883, ord. xxviii.

Amenida, Tender of, or satisfaction, is by particular statutes made a defence in an action for a wrong.

Amenation, insanity, idiocy.

Amencement, or Amenciament, a fine assessed by a jury, not, as is usually the case, fixed by the court or by statute.

Amicus curiae (friend of the Court), a stander by, not being a party to, or interested in, the cause, who informs the Court of any decided case or other fact of which it can take judicial notice.

Ammery, an almshouse.

Amnesty (non-remembrance), an act of pardon or oblivion, by which crimes against the government up to a date therein named are condoned, so that they can never thereafter be made the subject of a charge. An amnesty may be general, to all concerned in the offence, or particular, to one or more.

Amortisation, or Amortisement, an alienation of lands in mortmain (q. v.). (2) The payment off of bonds, stock, &c.
Amotion, Amove, to remove (1) from possession; (2) from a post or office.

Ampliation, an enlargement of time; a deferring of judgment till the cause be further examined.

Amy, or Ami, usually called prochein amy, the next friend (as distinguished from the guardian), suing on behalf of an infant, &c.

An, jour, et waste (year, day, and waste). A right of the crown to forfeit a felon’s lands for a year and a day, and to commit waste thereon. Now abolished.

Analyst, a person skilled in detecting the component parts or ingredients of substances.

Ancestor, he from whom another inherits real estate.

Ancient demesne, a tenure existing only in those manors which belonged to the crown in the reigns of Edward the Confessor and William the Conqueror. The tenants are freeholders and enjoy certain immunities, the chief of which is a right to sue and to be sued only in their lord’s court.

Ancient lights, windows which have had uninterrupted access of light for twenty years and upwards. The prescriptive right to light which they thereby acquire is called antiquity of light. See Light.

Ancient Messuage, a house erected before the time of legal memory, i.e., the reign of Richard the First: in practice any house is ancient which was built before the time of living memory, and the origin of which cannot be proved to be modern. Such houses frequently have certain rights (e.g., of common) attached to them and to houses built on the same sites afterwards. See Prescription.

Ancient Writings, documents upwards of thirty years old. These are presumed to be genuine without express proof, when coming from the proper custody.

Ancillary, that which is subordinate to, or assists, some other thing.

Angel, an ancient English coin of the value of ten shillings.

Aniens, or Anient, void, of no force or effect.

Animals, are either (a) tame or domesticated (mansuetæ), or (b) ferae naturæ. The latter are the property of any one who catches and keeps them; but being by nature irreclaimable, they cease to be his as soon as they get their liberty again. In the case of certain animals, e.g., pigeons, escape from the actual control of their owner does not affect his property in them so long as they have the intention of returning (animus recertendi). On the death of a man his deer (in a park), pigeons, or fish (in a stew-
pond) pass, unlike domestic animals, to his heir, and not to his executors; they are also the subject of larceny, but not so if they are in a place where they cannot at once be taken. There is no larceny of animals kept otherwise than for food or useful labour.

*Animus ad se omne jus ducit.*—(Intention attracts all law to itself.) In many important actions the law holds their efficacy to depend on the intention with which they are proved to have been performed; e.g., in the matter of change of domicile, the intention of permanently abiding in the new residence, (animus manendi), or of returning to the old one, is essential. An apparent exception to this exists in the criminal law, by which a person is held responsible for the consequences of his act, though he may have had no criminal intention. This, however, would be taken into consideration in the assessment of damages.

*Annuities,* *Annates,* the first-fruits of a spiritual living, viz., one year's profits.

*Annual rent right* (Sc.), a deed whereby, in order to evade the law which previous to the Reformation forbade the taking of interest, a yearly rent was granted out of land instead of paying interest.

*Annuity,* a periodical payment of money either bequeathed as a gift, or secured by the personal covenant or bond of the grantor. It is charged either upon personality or realty, and may be either perpetual, for life, or for years. If perpetual, it may be limited to the heirs (annuity in fee), or to the executors of the grantee (or annuitant).

*Annul,* to deprive of operation; e.g., a decree, adjudication of bankruptcy, &c.

*Annus deliberandi,* the year (now six months) allowed by the Scotch law for the heir to deliberate whether he will enter upon his ancestor's land and represent him.

*Annus luctus* (Roman law), the year after her husband's death, during which a widow was not allowed to marry.

*Answer,* under the old system of pleading, prior to the Judicature Act, was the defendant's statement of his case, now called his *Statement of Defence* (q.v.). A petition in the Chancery Division is said to be "answered" when the Secretary to the Master of the Rolls writes on it a flat or memorandum of the day on which it is to be heard. See *Interrogatories*.

*Ante,* a reference to a previous part of the same book or statement.

*Antedate,* to date a document before the day of its execution. (2) Bills, notes, and cheques may be antedated, i.e., given
an earlier date than that of the day they are made. See 45 & 46 Vict. c. 61, s. 13.

Ante litem motam (before litigation commenced).
Antenati, those born before a certain period, e.g., before marriage.

Ante-nuptial, before marriage. See Settlement.

Anticipation, in conveyancing means a dealing with property, income, &c., before the proper or specified time. Married women may be restrained by a will or settlement from aliening, by way of anticipation, during coverture, property settled to their separate use; the object of this provision being to prevent them, when under the influence of their husbands or others, from parting with their means of subsistence. By 44 & 45 Vict. c. 41, s. 39, the Court may dispense with this restraint when it is for the woman’s benefit.

Antigrophy, a copy or counterpart of a deed.

Apertura testamenti, a form of proving a will in the Roman Law by acknowledgment of the witnesses before a magistrate.

Apograph, a copy, an inventory.

Appanage, or Appennage, originally the lands assigned by kings of France for the maintenance of their younger sons; (2) a possession of the crown.

Apparent. See Heir, Easement.

Apparitor, a messenger, who cites and arrests offenders, and executes the decrees of the judges of the Spiritual Courts.

Appeal, an application by an appellant to a higher Court to rectify the order of the Court below. The opposite party is then called the respondent. Appeals to the Court of Appeal are brought by way of re-hearing (q. v.) on motion by the appellant; to the House of Lords, which is the highest court of appeal, by petition. In bankruptcy an appeal to the House of Lords can only be brought by special leave of the Court of Appeal. See High Court, Appendix. (2) Offence, under the old law, was a criminal proceeding brought by one person against another, the ground for which was the particular injury done by the appellee to the appellor: e.g., by a widow against the murderer of her husband. Abolished by 59 Geo. III. c. 46.

Appearance, a formal step taken by a defendant on being served with a writ of summons, signifying his intention of contesting the plaintiff’s claim. It can be made (a) in person, (b) by attorney, duly authorised, who is usually a solicitor, (c) by guardian, (d) by committee (q. v.). By R. S. C. 1883, ord. xii., r. 22, a defendant may appear any time before judgment.

Appellate jurisdiction, the power of a superior Court to
review the decision of an inferior Court. See the Act of 1876, c. 59.

**Appendant**, a hereditament annexed to another, *e.g.*, an advowson is said to be appendant to a manor. See *Common*. Properly speaking, that only which is annexed by implication of law is appendant, all others being *appurtenant* (*q.v.*). One corporeal hereditament cannot be appendant to another, nor an incorporeal to an incorporeal.

**Appendix**, in appeals to the House of Lords and Privy Council, is a printed book annexed to the “case” of each party, and containing the documents and evidence used on the previous hearings. See *Appeal*.

**Appointee**, a person selected for a particular purpose. (2) The person in whose favour a power of appointment is executed.

**Appointment.** (1) The designation of a person for a particular office. (2) Under a power, a gift or distribution of property made by a person (called the donee of the power or appointor), under a power given him by some instrument. Such powers may be *general* or *particular*, *i.e.*, limited to certain specified persons. An appointment is *exclusive* if limited to certain individuals out of the particular class specified by the power. Married women are often given a power of appointing by will, so as to avoid the necessity of obtaining their husband’s consent. See *Will*.

**Apportionment**, a division of a rent, common, &c., according to the interest of the various parties therein. (See the Act of 1870, and 44 & 45 Vict. c. 44, s. 12). (2) A contract is *apportionable* when one party to it on performing part of his obligation thereunder can call on the other to fulfil his, *pro tanto*. (3) A condition is now *apportionable* by statute, *i.e.*, waiver of a single breach of it does not put an end to it entirely, as used to be the case.

**Apposable of sheriffs**, charging them with money received upon the account of the Exchequer.

**Appostille**, an addition or annotation to a document.

**Appraisement**, a valuation. The writ of appraisement directs a valuation, *e.g.*, of goods forfeited to the Crown.

**Apprentice**, one bound by indentures of apprenticeship to a master in some trade, art, or mystery, who covenants to teach him the same.

**Approbate.** A person may not *approbate* and *reprobate*; *i.e.*, take advantage of one part of a deed and reject the rest.

**Appropriation**, the setting apart of money or goods to meet a particular demand. See *Clayton’s Case*. (2) The annexing of an ecclesiastical benefice to the perpetual use of a religious body, which thus becomes the patron. See *Improprition*. 
Approve, to approve under the statute of Merton (20 Hen. III. c. 4) was to appropriate and enclose portions of the waste land of the manor.

Prover, or Prover, an accomplice in crime who accuses others of the same offence, and is admitted as a witness at the discretion of the Court to give evidence against his companions in guilt. He is sometimes called "Queen's evidence."

Appurtenant, pertaining or belonging to by grant or prescription. See Appendant, Common. Appurtenances, in conveyancing, is a general term for that which passes with the principal subject of the grant, such as liberties and easements.

Aqua cedit solo.—(Water passes with the soil.) In the eye of the law water is land covered with water; the ownership of water, therefore, goes with that of the soil beneath. Where a river divides properties belonging to different persons, the centre, or medium filum, of the stream is taken to be the boundary line. The crown is presumptively entitled to the soil as far as the sea covers it, i.e., up to high-water mark on the sea-shore and the banks of tidal rivers. Land gradually covered by the sea becomes crown property; but it is otherwise of land covered by a sudden irruption of the sea. See Alluvion, Avulsion.

Aqua currit et debet currere.—(Water flows and ought to flow: i.e., there is no property in running water, merely a right to use it; and this right may only so be exercised as not to interfere with the use of the water by other persons similarly entitled.)

Aqua ductus (Roman law), scil. jus, the right to carry a watercourse through another's land.

Aqua haustus (Roman law), scil. jus, the right to draw water from the fountain, pool, or spring of another.

Aqua immittendae (Roman law), scil. jus, the right to allow the water from one's house to run upon and over a neighbour's land.

Arage, (or Arriage,) and Carriage, services of carriage formerly due by tenants to their lord.

Arbitrary punishment (Sc.), such as is left to the discretion of a judge.

Arbitration, the submitting of a matter in dispute to the judgment of one, two, or more disinterested persons, called arbitrators. It cannot extend to capital punishment. See the Common Law Procedure Act, 1854, ss. 11—17; Judicature Act, 1873, ss. 56, 57; Rule of Court, Umpire.

Arbitrement and Award, the technical plea in an old common law action, that the parties had submitted the matter to arbitration, and an award had been made.
Arca cyrographica, a chest wherein all the contracts, mortgages, and obligations belonging to the Jews were preserved to prevent fraud, by order of Richard I.

Archaionomia, a collection of Saxon laws, published during the reign of Queen Elizabeth, in the Saxon language, with a Latin version by Mr. Lambard.

Archbishop, the chief of the clergy in his province, where he is, under the Queen, supreme in all ecclesiastical causes, and superintends the Bishops. The Archbishops of Canterbury and Armagh are respectively called the Primate of all England and of all Ireland; those of York and Dublin the Primate of England and of Ireland, and are inferior in rank.

Archdeacon, a substitute for, and next in order to, the bishop. He has an ecclesiastical jurisdiction and court.

Arches Court, a court of appeal belonging to the Archbishop of Canterbury, the judge of which is called the Dean of the Arches, because his court was anciently held in the church of Saint Mary-le-Bow (Sancta Maria de arcubus), so named from the steeple, which is raised upon pillars, built archwise.

Archetype, the original type or copy.

Archives, a chamber or place where ancient records, charters, &c., are kept. (2.) The records, &c., themselves.

Argument, the process of drawing inferences. (2) The discussion of a legal point by counsel. (3) The inference itself. Of (1) there are several distinct kinds to which different names have been assigned, e.g. (i.) ad hominem, i.e., founded on the individual circumstances or characteristics of the person to whom it is addressed; (ii.) ad verecundiam, i.e., the appeal to respect for authority; (iii.) ad ignorantiam, founded on the inability (through ignorance) of the opposing party to reply; (iv.) ad baculum, the appeal to force; (v.) ad misericordiam, the appeal to compassion. Argument, or the process of reasoning, is also divided into (a) à priori, and (b) à posteriori; (a) is from the antecedent or cause to the consequent or effect; and so in ordinary parlance à priori means "at first sight," i.e., from our knowledge of the general rule of causation applicable to the case: (b) is from the consequent to the antecedent.

Argumentative. A pleading in which the statement on which the pleader relies is implied instead of being expressed, was, under the old system, called argumentative. (2) An affidavit or pleading is now called argumentative if it states, not merely facts, but the conclusions of law to be drawn from those facts. This practice is improper.

Armiger, an esquire.
Arms. Under this term the law includes everything with which one strikes; thus sticks, stones, and fists are "arms." Arma in armatos sumere jura sinunt.—(The laws permit the taking up of arms against armed persons.)

Arraign, to bring a prisoner to the bar of the Court to answer the matter charged upon him in the indictment. It consists of three parts, (a) calling him by name, (b) reading him the indictment, (c) asking him if he be guilty or not guilty. He may then either confess, plead not guilty, or stand mute (q.v.).

Array, a jury (q.v.). See Challenge.

Arrears, Arrearages, money unpaid at the due time, e.g., of interest or rent. See Limitation of actions.

Arrenation, licensing the owner of lands in a forest to enclose them with a low hedge and small ditch according to the assize of the forest, under a yearly rent.

Arrest, of judgment, an unsuccessful defendant may move that the judgment for the plaintiff be arrested or withheld, notwithstanding a verdict given, on the ground that there is some substantial error appearing on the face of the record which vitiates the proceedings. (2) Of persons, to restrain of their liberty by some lawful authority. Arrest on mesne process (q.v.) was abolished by the Debtors' Act, 1869. Touching the person is a sufficient arrest. (3) Of ships, by service of writ of summons in an action in rem in the Admiralty Court.

Arrestment (Sc.), answers to attachment of debts in English law; the judgment debtor is called the arrestee; the garnishee, the common debtor; and the judgment creditor, the arrester, or user of the arrestment.

Arrestito facto super bonis mercatorum alienigenorum, a writ against the goods of aliens found within this kingdom, in recompense of goods taken from a denizen in a foreign country, after denial of restitution. See Reprisal.

Arretted, charged.

Arrha, an earnest; evidence of the striking of a bargain.

Arrogatio (Roman law), adoption of a person of full age; adoptio being that of a person under age.

Arson, the malicious firing of a house or other building.

Art, Words of, technical words.

Art and Part (Sc.). One is "art and part guilty" who orders, incites, counsels, or assists a criminal in the execution of a crime. "To have neither art nor part" is to be neither contriver nor participator.

Arthel, a vouchee, one who answers for another. If a man
were taken with stolen goods in his possession he was allowed a lawful arthel to clear him of the felony.

Article, a complaint exhibited in the Ecclesiastical Court by way of libel. (2) The different parts of a libel, or of a responsive or counter allegation in the Ecclesiastical Courts.

Articled clerk, a pupil of a solicitor, who undertakes by articles of clerkship containing covenants mutually binding, to instruct the pupil in the principles and practice of the profession.

Articles, clauses or paragraphs of a document or agreement. (2) The agreement (q.v.) itself; (3) of Religion, the thirty-nine articles agreed on by Convocation in 1562: they must be subscribed to on taking holy orders; (4) of Association, the regulations of a company. See the Companies Act, 1862, Table A.

Articles of the peace, a complaint on oath made to a Court that the applicant goes in fear of his life or of bodily harm from the threats of another person, from whom sureties of the peace are thereupon taken for such a length of time as the Court shall think necessary.

Articles of Roup (Sc.), conditions of sale.

Articles of War, a code of laws for the regulation of the land forces made, prior to 1879, in pursuance of the several annual acts against mutiny and desertion. See the Army Discipline Act, 42 & 43 Vict. c. 33.

Articuli Cleri, statutes containing certain articles relating to the church, clergy, and causes ecclesiastical, made at Lincoln.

Articulus Cleri, a resolution of Convocation.

Artificial person, a corporation or corporate body, a company.

Ascendants, the progenitors of a person in a direct line.

Ascriptitus (Rom. law), a naturalized foreigner.

Asportation, carrying away or removing goods. In all larcenies, there must be both a taking and a carrying away.

Assach, or Assath, a custom of purgation formerly used in Wales, by which an accused party cleared or purged himself of the accusation by the oaths of three hundred men.

Assart, or Essart, in the old forest law, the offence of pulling up coverts, so as to make the ground plain as arable land.

Assault, strictly speaking, is a threatening to strike or harm; if a blow be struck it is battery (q.v.). Assaults are common or aggravated, the former being those for which no special punishment is prescribed by the law. An assault is in civil law a tort for which damages are recoverable.

Assay, the testing of weights and measures and of coins.
Assedation (Sc.), a lease or feu right.

Assembly, Unlawful, is one of three or more persons, to do an unlawful act. See Riot.

Assent. The title of a legatee is not complete until the executor has assented to the legacy, either by implication or expressly.

Assertory covenant, an affirming promise under seal.

Assess, to rate or ascertain an amount or value.

Assessed taxes, duties charged in respect of certain articles, as houses, servants, and carriages.

Assessors, literally those who sit by the side of another: persons appointed to assess taxes, rates, &c. (2) Persons associated with a judge or judges to advise them and assist their deliberations; but they take no part in giving judgment. In Admiralty cases they are often employed.

Assets, property available for the payment of the debts of a person or corporation. The assets of a deceased person are: (i) real or personal (See Administration); (ii) legal, i.e., those which come to the hands of the executor by virtue of his office, or equitable, i.e., those which can only be reached by help of the Court. This distinction is abolished as regards persons dying after 1st January, 1870. Assets by descent are lands which come to the heir charged with the debts of his ancestor.

Assidere, or Assedare, to tax equally. (2) See Assedation.

Assign, to transfer property, especially personality. By the Judicature Act, 1873, s. 25, sub-s. 6, choses in action are made assignable by an absolute assignment in writing, provided notice be given to the debtor, trustee, &c.; the assign thereupon acquires all the rights and liabilities of the assignor. (2) To set out, e.g., dower (q. v.), or waste. (3) To specify. See Breach, Assignment.

Assignatus utitur jure auctoris.—(The assignee enjoys the rights of his assignor.)

Assignee, or Assign (Concessionary, Sc.), a person who takes some right, title, or interest in things by an assignment. In the old law, creditor’s assignees held the same position as trustees in bankruptcy now do. In each bankruptcy an official assignee acted with the creditor’s assignee.

Assignment (Assignation, Sc.), a transfer of property, especially of personality. (2) A transfer of the whole of a particular estate, or right, e.g., a lease, or contract; the usual words being “assign, transfer, and set over.” But other words indicating an intention to make a complete transfer will amount to an assignment. See Under-lease.
Assignment of Dower, the ascertaining and setting out of a widow's portion of her deceased husband's realty for her dower.

Assignment of Errors, the formal statement of the objection or error in the record complained of.

Assignor (Credent, Sc.), a person who transfers or makes over property to another.

Assimulate, to connect highways.

Assisa (Sc.), a sitting in session. (2) A law. (3) A jury.

Assisa cadere, to be nonsuited, as when there is such a plain legal insufficiency in an action, that the plaintiff cannot successfully proceed any further in it.

Assisa continuanda, an ancient writ addressed to the justices of assize for the continuation of a cause, when certain facts put in issue could not have been proved in time by the party alleging them.

Assise, or Assize, a legislative enactment, e.g., the assize of bread (q. v.). (2) Legal proceedings. (3) The jury, who sit together for the purpose of trying a cause. Hence the judicial assemblies held by the Queen's commission in every county, as well to take indictments as to try causes at Nisi Prius, are commonly termed the assizes. There are two commissions: (1) General, which is issued twice a year to the judges of the High Court of Justice; two judges being usually assigned to every circuit. The judges in this case have four several commissions: (a) Of Oyer and terminer, directed to them and many other gentlemen of the county, by which they are empowered to try treasons, felonies, &c. This is the largest commission. (b) Of Gaol delivery, directed to the judges and the clerk of assize associate, empowering them to try every prisoner in the gaol committed for any offence whatsoever, so as to clear the prisons. (c) Of Nisi Prius, directed to the judges, the clerks of assize and others, by which civil causes, in which issue has been joined in one of the Divisions of the High Court of Justice, are tried on circuit by a jury of twelve men of the county in which the venue is laid. (d) A commission of the peace, by which all justices are bound to be present at their county assizes to give attendance to the judges or else suffer a fine. (II.) The other division of commissions is special, granted to certain judges to try certain causes and crimes. See now the Judicature Act, 1873, ss. 11, 16, 29, 37, 77, 93, and 99, under which, however, no very material alteration is made in the manner of holding the assizes. A cause or matter not
involving any question or issue of fact may be tried and
determined with consent at the assizes; ibid. s. 29.

**Assise**, of *bread*, a statute regulating the price of bread; (2)
of *the forest*, a statute touching orders to be observed in the king's
forests; (3) of *darrein presentment* (last presentation), a real action
which lay against any one who interposed with the plaintiff's
right to present to a benefice; (4) of *mort d'ancestre*, a real action
against an *abator* (*q.v.*), who had entered on the death of the
plaintiff's ancestor; (5) of *nouel disseisin*, a real action where one
had been recently dispossessed.

**Assiser**, an officer who has the care and oversight of weights
and measures.

**Assistance**, *Writ of*, appears to have been first employed
in the reign of James I. When on issuing a writ of sequestra-
tion the Commissioners are unable to obtain possession, a writ
of assistance is issued to the sheriff to put them in pos-
session.

**Assistant-Judge**, is a judge of the General or Quarter
Sessions for Middlesex; he is salaried, and may appoint a
deputy.

**Assisus**, rented or farmed out for such an assize or certain
assessed rent in money or provisions.

**Associate**, was an officer in each of the Courts of Common
Law, his duties being to superintend the entry of causes, and to
enter verdicts and draw up the certificates of judgments and
orders at *Nisi Prius*. See *Postea*. Since the Judicature Act
*associates* are styled Masters of the Supreme Court, of which
they are now officers.

**Association**, a collection of persons for a certain purpose.
See *Company, Articles*. (2) A writ or patent sent by the crown
to the justices appointed to take assizes to have others (ser-
jeants-at-law, for instance) associated with them; it is usual
where a judge becomes unable to attend to his circuit duties,
or dies.

**Assoile**, to deliver from excommunication; to acquit.

**Assoilzie (Sc.),** to acquit or find not guilty.

**Assumpsit**, the name of an action which lay for damages
for breach of a *simple contract*, *i.e.*, one not under seal. It was
a species of *action on the case* (*q.v.*)

**Assurance, or Common Assurance**, the legal evidence
of the transfer of property. See *Conveyance*. (2) See In-
surance.

**Assured**, a person assured or indemnified by the undertaking
of another. See *Assurer*. 
Assurer, one who undertakes to indemnify against certain risks or dangers; an underwriter. See Insurance.

Assythment, damages recoverable by the heirs or representatives of a person killed from the person killing.

Astipulatio (Rom. law). See Adstipulator.

Astitrarius hæres (Rom. law), an heir apparent who has been placed, by conveyance, in possession of his ancestor's estate during such ancestor's lifetime.

Astriction to a mill, a servitude by which grain growing on certain lands or brought within them, must be carried to a certain mill to be ground, a certain mulcture or price being paid for the same. See Action of abstracted mulctures.

Astrihilibet, a forfeiture of double the damage.

Asyle, Asylum, a sanctuary or place of refuge for offenders to fly into; (2) a place where lunatics are lodged and treated. Since the year 1853 the licensing and inspection of lunatic asylums has been the subject of several enactments of the legislature.

At arms length. One who stands towards another in such a position as to have an advantage of him, is bound, on a proposal for a contract between them, to divest himself entirely of that authority, influence, or advantage which he possesses, so as to place himself on an equality, and to let the negotiation proceed as between two independent persons. This is called putting at arms length. It is most frequently applicable to transactions between solicitor and client, trustee and cestui que trust.

Atavus, the great grandfather's or great grandmother's grandfather. The ascending line of lineal ancestry runs thus:—Pater, Avus, Proavus, Abavus, Atavus, Tritavus.

Atia, ill will. See De odio et atia.


Attach. See Attachment.

Attachiamenta bonorum, a distress formerly taken upon goods and chattels, by the legal attachiatores or bailiffs, as security to answer an action for personal estate or debt.

Attachiamenta de spinis et boscis, a privilege granted to the officers of a forest to take thorns, brush, and windfalls.

Attachment, is (1) of a person; (2) of goods: (1) is effected by writ of attachment, and is either (a) in an action; e.g., for contempt of an order, in which case the contemnor is kept in prison until he has purged his contempt; or (b) at the discretion
of the justices on a bare suggestion, or of their own knowledge, in order, e.g., to punish disobedience to the Queen's writs: (2) is either (a) of debts (see Garnishee); or (b) in the Mayor's Court. See Foreign Attachment.

Attachment of the forest, one of the three Courts formerly held in forests. The highest was called Justice in Eyre's seat; the middle, the Swainmote; the lowest, the Attachment.

Attachment of privilege. When a person by virtue of his privilege, calls another into that court to which he himself belongs, to answer some action. (2) A power to apprehend a person in a privileged place.

Attainer, the extinction of civil rights which resulted (until 1870, when it was finally abolished) from a sentence of death or outlawry for treason or felony. The two chief consequences were forfeiture of the criminal's property, and corruption of his blood so that no title could be traced through him; as to which latter see 3 & 4 Will. IV. c. 106, s. 10.

Attaint, under attainer; (2) writ of, issued to inquire whether a jury gave a false (i.e., corrupt) verdict, that so the judgment following thereupon might be reversed.

Attainture, legal censure.

Attempt, An, to commit a crime is punishable even though unsuccessful. In some cases, e.g., murder, it is a felony.

Attendant Term. See Term.

Attentates, proceedings in a court of judicature, pending suit, and after an inhibition is decreed and gone out.

Attermine, granting time for payment of a debt.

Attestation, evidence by witnesses to the execution of any instrument.

Attestation Clause, the sentence subscribed to a written instrument signed by the witnesses to its execution, stating that they have witnessed it. They are then attesting witnesses, and can be called at any future time to identify the instrument and prove its due execution. See 1 Vict. c. 26, s. 8, as to wills. A gift by will or codicil to an attesting witness of that will or codicil is void.

Attested Copy, a verified transcript of a document.

Attorney, one appointed by another to act in his place either (1) in a legal matter or proceeding; in which case the attorney, since the Jud. Act, is called a solicitor; or (2) in a private matter or for a certain purpose; in which case the instrument by which the attorney is appointed is called a power or letter of attorney. See Execution, Power of Attorney.
Attorney General, the principal counsel of the Crown, who conducts prosecutions on behalf of the Crown if required, (see Public Prosecutor), and represents the Crown in matters connected with charities and patents. He also is responsible in the House of Commons for the Government of the day in all questions of law. The Prince of Wales and the Queen Consort have each an Attorney-General.

Attornment, the acknowledgment of a new lord on the alienation of land; (2) the agreement of the owner of a particular estate in land to attorn to, or become the tenant of, a person who has acquired the estate next in reversion or remainder, or the right to the rent or other services by which the land is held.

Auctioneer, a person licensed to conduct sales or auctions. He is the agent of both vendor and purchaser for the purpose of binding them by his memorandum of the sale.

Audiendo et terminando, a writ or commission to certain persons to appease and punish any insurrection or great riot.

Audience Court, a court of the Archbishop of Canterbury having the same authority as the Court of Arches, but inferior in dignity.

Audit, an examining of accounts, which may be either (a) detailed, or (b) administrative; (a) is the comparison of vouchers with the sums debited as paid; (b) the comparison of the sums debited with the authorities to pay. See Surcharge.

Audità querelà [defendentis] was an equitable action whereby a person against whom judgment had been given might prevent execution, on the ground of some matter of defence which there was no opportunity of raising in the original action. Abolished by Jud. Act, 1875, ord. xlii. r. 22.

Augmentation, Process of (Sc.), is raised by the minister of a parish for the purpose of obtaining an increase of stipend.

Aula ecclesiae, the nave or body of a church, where temporal courts were anciently held.

Aula Regis, or Regia, a court established by William the Conqueror: it was composed of the great officers of state, and followed the king's household in all his expeditions.

Aulmager, an officer of the excise who formerly measured all woollen cloth made for sale, and estimated the duty to be paid thereon.

Aurum Reginae (Queen's gold), anciently a revenue of the queen consort, due from every person who made a voluntary
offering or fine to the king amounting to ten marks or upwards, for some privilege conferred upon him by the king.

**Autor**. See **Autre**.

**Authentic act**, that which has been executed before a notary or other public officer, duly authorised, or which is testified by a public seal, or has been rendered public by the authority of a competent magistrate, or which is certified as being a copy of a public register.

**Authentication**, an attestation made by a proper officer by which he certifies that a record is in due form of law, and that the person who certifies it is the officer appointed so to do.

**Authentics**, a collection of the Novellæ Constitutiones (additions to the Code) of Justinian, made by an anonymous author.

**Authority**, power or right conferred on a person; usually by another to act on his behalf, so that the person authorized may do such act without incurring liability. See **Agent**; (2) a public body having certain powers or jurisdiction; (3) decided see, opinions of text writers, and the like cited in arguments.

**Auto de fe** (**Act of faith**), public readings of trials and sentences of the Inquisition.

**Autre (auter) droit**, in right of another; e.g., a trustee holds in the right of his cestui que trust.

**Autrefois acquit** (formerly acquitted), a plea in criminal cases, that one has been already acquitted on the same charge.

**Autrefois attained** (formerly attainted), a plea in criminal cases, that one is still attainted. Obsolete. See **Attainder**.

**Autrefois convict** (formerly convicted). Before 6 Geo. IV. c. 25, a man convicted of a clergyable felony, and who had prayed the benefit of clergy, might plead such conviction and prayer of clergy in bar of any subsequent indictment, either for the felony of which he was convicted, or for any other clergyable felony committed by him previously to his conviction. This statute restricted the benefit of the allowance of clergy to the charge upon which it was allowed, and now a previous conviction can only be pleaded in bar of any subsequent indictment for the same felony. See **Benefit of clergy**.

**Autre vie**, **Tenant pur** (tenant for another's life). An estate for the life of another is an estate of freehold, though it is the lowest or least estate of freehold which the law acknowledges. An estate for the life of another is not so great as an estate for one's own life.

**Auxilium curiae**, a precept or order of Court citing a person, at the suit of another, to warranty. (2) See **Aid**.

**Auxilium facere alicui in curia regis**, to become another's
attorney and representative in a court of law, an office formerly undertaken by courtiers for their dependents in the country.

Auxilium regis, the king's aid (q.v.); money levied in former times, when the sovereign provided out of his privy purse for many departments of the public service.

Auxilium vicecomiti, a customary aid (q.v.) anciently payable to sheriffs out of certain manors, for the better support of their offices.

Avail of marriage (Sc.), a sum paid on marriage by a vassal to his superior.

Aval, surety for payment.

Avenage, payment in oats made by a tenant to his landlord for rent, &c.

Aver, (1) a beast of the plough (See Averium); (2) money; (3) to prove to be true; (4) to allege as true (in pleadings); whence Averment.

Average, (1) A service which a tenant owes to his lord by doing work with his avers or beasts. (2) A contribution, or adjustment of loss, made by merchants when goods have been thrown overboard for the safety of a ship. It is either general, i.e., where the loss having been incurred for the general benefit, the owners of the ship and all that have cargo on board contribute proportionately towards making good the loss; or particular, where the loss has been accidental, or not for the general benefit, and therefore there is no general contribution. An average bond is a deed executed by the several persons liable to contribute, empowering an arbitrator to assess the amount of their contributions. See General Average. (3) A small duty paid to masters of ships over and above the freight; known also as primage and average. (4) Stubble, or short standing straw left in cornfields after harvest. In Kent it is called gratten, and in other parts roughings. (5) Average, i.e., mean, prices of articles sold within a certain period or district.

Averis captis in withernam, a writ granted to one whose cattle were unlawfully distrained by another and driven out of the county in which they were taken, so that they could not be replevied by the sheriff.

Averium, the best live beast, due to the lord as a heriot on his tenant's death.

Aversionem, Sale per, sale by bulk.

Avitious, left by a person's ancestors.

Avizandum. In the Scotch Courts the judges are said to "make avizandum" when time is taken to consider judgment.
In the English Courts this is denoted by the term *curia advisari vult*.

**Avoidance**, of a *benefice*, takes place when it is void of an incumbent, in which sense it is opposed to *plenarty*. (2) The making of a transaction or instrument void, or of no effect. (3) See *Confession*.

**Avoucher**, the calling upon a warrantor to fulfil his undertaking. Under the feudal system, when the tenant’s title was impugned, he *avouched* (or vouched) his landlord to defend his right. See *Vouchee*.

**Avowant**, one who makes an *avowry*.

**Avowry**, or *Advowry*, (1) a declaration; (2) a pleading in the action of replevin, which stated the nature and merits of the defence, and justified or avowed taking the distress in his (the defendant’s) own right, which, if established, would entitle him to a judgment *de recto habendo*.

**Avowterer, Avouterer* (*Avowtry*), an adulterer.

**Avulsion**, land separated by an inundation or current from other land of which it originally formed part. See *Alluvion, Aqua cedit*.

**Avus**, a grandfather. See *Atavus*.

**Award**, (1) to adjudge, or assess, *e.g.*, damages; (2) the decision of an arbitration, which is binding on the parties, unless set aside on the ground of *mala fides* on the part of the arbitrator, or some palpable mistake in the award, or a misconception by him of his duty. When a submission to arbitration (*q.v.*) is made a rule of Court under the Common Law Procedure Act, 1854, the award can be enforced like the judgment of a court of law.

**Away-going** (or *Way-going*) crops, those sown during the last year of a tenancy, but not ripe until after its expiration. The right which an out-going tenant has to enter, cut and take an away-going crop when ripe is sometimes given to him by the express terms of the contract, but, where that is not the case, he is generally entitled to do so by the custom of the country. Sometimes the incoming tenant is bound to buy the crop of him at a valuation.

**Awm**, a measure of wine containing forty gallons.

**Ayant cause**, a receiver; also a successor, or one to whom a right has been assigned, either by will, gift, sale, or the like.

**Ayle**, a grandfather.
B.

B. R., Bancus Regina, Queen's Bench. See Banc.

Backberinde, or Backverinde (bearing upon the back) used formerly of a thief apprehended with the things stolen in his possession, also called being taken with the mainour, as having the goods in his hand.

Back-bond (Sc.), a deed, usually separate, attaching a qualification or condition to the terms of an absolute disposition, and thus constituting a trust.

Backing a warrant. Where a warrant which has been granted in one jurisdiction is required to be executed in another, then, on proof of the handwriting of the justice who granted the warrant, a justice in such other county endorses or writes his name on the back of it, and thus gives authority to execute the warrant in such other county.

Backside, a yard at the back part of or behind a house.

Backwardation (Stock Exchange), a sum paid by a seller of stock, &c., in consideration of the delivery of it being deferred till the next account day. See Continuation.

Bad (in substance). The technical word for unsoundness in pleading.

Badger, a person who buys corn or victuals in one place, and carries them to another to sell and make profit by them.

Baga, a bag or purse. Hence the Petty-Bag-Office (q. v.), because all original writs relating to the business of the Crown were formerly kept in a little sack or bag, in parvá bagá.

Bagavel, a toll granted by Edward I. to the citizens of Exeter, upon all manner of wares brought to that city to be sold, to be applied towards the paving of the streets, repairing the walls, and maintaining the city.

Bail, to set at liberty a person arrested or imprisoned, on security (or bail) being taken for his appearance on a day, and at a place named. Between bail and mainpernors there is this marked distinction: mainpernors are merely a person's sureties, who cannot imprison him themselves to secure his appearance, but bail may, for they are regarded as his gaolers, to whose custody he is committed. The word "bail" is never used with a plural termination. See Bailable.

There are several kinds of bail at Common Law:—

(1) Common bail, or bail below, is given to the sheriff, after arresting a person, on a bail bond (q. v.) entered into by two
sureties, on condition that the defendant appear at the day and
in such place as the arresting process commands.

(2) Special bail, or bail above, or bail to the action, are per-
sons who undertake generally, after appearance of a defendant,
that if he be condemned in the action, he shall satisfy the debt,
costs, and damages, or render himself to the proper prison, or
that they will do it for him.

(3) Bail on an attachment. When a defendant is arrested
upon a writ of attachment, he is brought before a Court or a
judge and sworn to answer interrogatories, and then committed,
unless, by leave of a Court or a judge he enter into a recog-
nizance with sureties, for his appearance in Court from day to
day, to answer interrogatories concerning such matters as may
be objected against him.

Bail-bond, an instrument prepared in the sheriff’s office
after an arrest, executed by two sufficient sureties and the person
arrested, and conditioned for his causing special bail to be put
in for him in the court out of which the arresting process
issued.

Bail Court, sometimes called the Practice Court, was an
auxiliary of the Court of Queen’s Bench.

Bailable. An arresting process is said to be bailable when
the person arrested may obtain his liberty on giving bail; e.g. a
capias on mesne process is bailable; a capias ad satisfaciendum
is non-bailable. A magistrate may in all cases of felony, except
treason, and must in all cases of misdemeanor, except those
specified in 11 & 12 Vict. c. 42, s. 23, admit to bail a person com-
mited by him.

Bailee, a person to whom goods are entrusted for a specific
purpose. See Bailment.

Bailie (Sc.), a magistrate.

Bailiff, an officer who puts in force an arresting process, a
sheriff’s officer. He usually gives security to the sheriff against
liability for his actions, hence bum-bailiff, i.e. bound-bailiff.

Bailiwick, (1) the jurisdiction of a bailiff; (2) a county; (3)
a liberty exempted from a sheriff, over which a bailiff is ap-
pointed by the lord of the liberty or franchise, with such powers
within his precinct as an under-sheriff exercises under a sheriff.

Bailment, a compendious expression to signify a contract
resulting from the delivery of goods by a bailor to a bailee, on a
promise by the latter to return them when the purpose is fulfilled
for which they were delivered.

Bailments are divisible into three kinds:—(1) Those in
which the trust is exclusively for the benefit of the bailor, or
of a third person, when the bailee is liable for gross negligence only. (2) Those in which the trust is exclusively for the benefit of the bailee, who is then bound to the very strictest diligence; and (3) Those in which the trust is for the benefit of both parties, or of both or one of them and a third party; when the bailee must exercise an ordinary and average degree of diligence. (1) embraces deposits and mandates ('depositum,' 'mandatum'); (2) gratuitous loans for use ('commodatum'); and (3) pledges or pawns, hiring and letting to hire ('locatio et conductio'), and carriage. See Carrier.

Bailor, or Bailier, a person who commits goods to another person (the bailee) in trust for a specific purpose.

Bail-piece, a piece of parchment containing the names of special bail, with other particulars, which, being signed by a judge, is filed in the Court in which the action is pending; whereupon notice of the bail having justified (i.e., been approved) is then given to the opposite party.

Balance-order, an order served on a contributory to a company to pay up the balance of a call due from him.

Ballastage, a toll paid for the privilege of taking up ballast from the bottom of a port or harbour.

Ballivo Amovendo, an ancient writ to remove a bailiff from office.

Ballot, Vote by, a method of secret voting, introduced in parliamentary and municipal elections by 35 & 36 Vict. c. 35, which Act is continued from year to year.

Ban, or Bann [Teut.], a proclamation or public notice, or summons or edict, whereby a thing is commanded or forbidden. Hence bannire, to summon, and banns, in the plural, the publication of an intended marriage. (2) A denunciation or curse.

Banc (or Banco), Sittings in [Bancus Reginæ, or Banc la Reine, is the Queen’s Bench; Bancus communium Placitorum, or Banco le Common Pleas, is the Court of Common Pleas, or the Common Bench]; the sittings of a Superior Court of Common Law as a full Court, as distinguished from the sittings of the Judges at Nisi Prius or on Circuit.

Bancus Superior, abbrev. Banc. Sup., the Upper Bench; the King’s Bench was so called during the Protectorate.

Bandit, a man outlawed, put under the ban of the law.

Baneret, or Banneret, a knight made on the field of battle. He ranks next to a baron.

Banishment, a forsaking or quitting the realm, entailing civil death. It is of two kinds:—one, voluntary and upon
oath, called abjuration, the other upon compulsion, for some offence.

**Bankers' cheques.** For the law of, see 45 & 46 Vict., c. 61.

**Bank-note,** a promissory note issued by a bank undertaking to pay on demand a sum therein specified. Bank-notes are legal tender (q.v.) in certain cases.

**Bankrupt.** A debtor who does certain acts, called *acts of bankruptcy* (q.v.), may be adjudged bankrupt, and so made liable to the bankruptcy laws. The Bankruptcy Act of 1869 has been repealed by the Act of 1883, 46 & 47 Vict. c. 52, the chief objects of which are to discourage a too ready recourse to the process of bankruptcy for the purpose of getting rid of a person's liabilities; and to prevent the dissipation of a bankrupt's assets amongst persons other than his creditors. The first result is sought to be obtained by making the discharge of a bankrupt conditional on a favourable report of the *official receiver* (q.v.) as to his conduct and affairs (s. 28); by prohibiting an undischarged bankrupt from gaining credit from any person for 20l. or upwards without informing such person that he is an undischarged bankrupt; and by continuing the disqualifications to which a bankrupt is subjected by the Act until he has paid his debts in full, or has obtained his discharge *with a certificate* that his bankruptcy was caused by misfortune without any misconduct on his part (ss. 32, 35). See *Discharge.* The second result is aimed at by subjecting trustees in bankruptcy to more stringent regulations and a more constant scrutiny, and also by making their remuneration depend partly on the amount of assets they recover for the creditors and partly on the dividends they distribute. Trustees in bankruptcy are by the Act subjected to the control of the creditors at a general meeting, the committee of inspection, the Board of Trade, and the Court, *i.e.,* the High Court or County Courts. The Act also provides for the summary administration of bankrupts' estates in small cases (ss. 121, 122). A *bankruptcy petition,* which by the Act may now be presented by the debtor himself as well as by a creditor, is followed by a *receiving order* for protection of the estate, whereby an official receiver is constituted receiver of the debtor's property; thereupon a general meeting of his creditors is held, and if they resolve that he be adjudged bankrupt, or if no composition is agreed upon within a limited period (s. 20), the adjudication in bankruptcy follows, as a matter of course, and the debtor's effects become divisible amongst his creditors.

**Bannimus,** the form of an expulsion of a member from the
University of Oxford, by affixing the sentence in some public
place, as a denunciation or promulgation of it.

Bannitus, or Banniatus, an outlaw; a banished man.

Bannum, or Banleuga, the bounds of a manor or town.

Baptism, Registry of. See Registration.

Bar, a partition running across the courts of law, within
which solicitors, being officers of the Court, are admitted, as are
also queen’s counsel, barristers with patents of precedence, and
serjeants, in virtue of their ranks. All other barristers and the
public must remain outside it. Parties who appear in person
are placed within the bar on the floor of the Court. (2) A legal
obstacle: to bar a debt or entail is to destroy it.

Bar, Plea in, a pleading showing some ground for barring
or defeating an action at Common Law.

Bar, Trial at, the trial of a cause before a full Court of
three or more judges of the Superior Court instead of a single
judge at Nisi Prius.

Bare, or dry, trustee, one whose active duties have come
to an end, so that he can be compelled by his cestui que trust to
convey the property according to his direction.

Bar-fee, or Barr-fee, a payment formerly taken by a sheriff
or gaoler from an acquitted prisoner.

Bargain and Sale, an agreement for sale of goods which
passes the property at once. (2) A form of conveyance of real
property, (a) statutory (see lease and release); (b) at common
law, which is used in the case of a sale by executors with a mere
power to sell. A Bargain and sale (a) of freehold has to be
enrolled.

Barleycorn, the third of an inch; (2) in conveyancing, a
nominal consideration or rent.

Barmote, Barrmote, or Barghmote, a court, not of
record, within the Hundred of the Peak in Derbyshire, for the
regulation of possessions and trade of the miners.

Baron, the lowest degree of nobility: they hold (a) by pre-
scription; (b) by patent. (2) Judges of the Exchequer. Since
the Jud. Act, 1877, they are styled Justices of the High Court.
(3) Husband (feme wife), now disused. (4) Baron of the Cinque
Ports, a freeman (old charters); later, a member of Parlia-
ment.

Baronet, a dignity descendible to issue male, originally
created in 1611, and taking precedence of all knights.

Barony of land, a quantity of land amounting to 15 acres.
In Ireland, a subdivision of a county.

Barratry, or Barrestry (Barrator), (1) Common, the offence
of constantly stirring up quarrels amongst Her Majesty's subjects, whether at law or otherwise; (2) any illegal or fraudulent conduct by the master or crew of a ship by which the freighter or owner is injured; (3) in Scotland, the crime of a judge who is induced, by bribery, to pronounce a judgment; (4) the simony of clergymen, going abroad to purchase benefices from the see of Rome.

Barrier, the wall of coal left between two contiguous mines.

Barrister, one who has been admitted to plead at the Bar (q. v.). He may not sue for his fees, which are an honorarium; and is not liable for negligence, or for anything spoken by him relative to the cause in hand and in pursuance of his instructions.

Base-estate (Bassa tenura as opposed to alta, or military), lands held by base tenants, who performed certain prescribed villainous services to their lords. There is a difference between a base estate, and villenage; for to hold in pure villenage is to do all that the lord commands.

Base-fee, otherwise called a fee qualified or conditional, is an estate of freehold conditioned to determine on the happening of a particular event; such as the failure of heirs male, the ceasing to be tenant of Blackacre, and the like; (2) the estate created by a tenant in tail who bars the entail without the consent of the Protector of the Settlement (q. v.); and thus, only the issue of the tenant in tail being barred, the estate determines on their failure.

Base-infeftment, Base-rights (Sc.), a disposition of lands by a vassal or mesne lord, to be held of himself.

Basilica, a body of law, framed A.D. 880.

Bastard, one born out of wedlock; (2) one born in wedlock who has been bastardized by legal sentence. He has no claim to succeed to property of his parents, nor to the name of either.

Bastard-eigné. If a man have a natural son, and afterwards marry the mother, and by her have a legitimate son, the latter is called mulier puisné, and the elder son bastard eigné.

Bastardize, to declare bastard, as a court does; (2) to give evidence in proof of bastardy. This a mother (married) may not do.

Baths and Washhouses. Certain acts, e.g., 9 & 10 Vict. c. 74, and 10 & 11 Vict. c. 61, have been passed to encourage their establishment in towns.
Battel, Wager of, a form of trial by combat anciently used in military, and certain criminal, cases.

Battery, beating and wounding. To beat in the legal acceptation of the term, means not merely to strike forcibly with the hand, or a stick, or the like, but includes every touching or laying hold, however trifling, of another's person or clothes, in an angry, insolent, or hostile manner.

Bearer (Stock Exchange), one who speculates for a fall in prices.

Bearer, when the benefit of a security, e.g. a cheque, can be claimed by any person who presents it, it is said to be "payable to bearer;" (2) see Maintenance.

Beasts of chase [ferae campestres], are the buck, doe, fox, marten, and roe; of the forest are the hart, hind, hare, boar, and wolf, which are also called beasts of venary; of the warren are the hare and coney.

Beau-pleader (to plead fairly), the name of an obsolete writ founded on the statute of Marlbridge (52 Hen. III. c. 11.)

Bederepe, or Biderepe, a service which certain tenants were anciently bound to perform; as to reap their landlord's corn.

Bedford Level, a fenny tract in the counties of Norfolk, Suffolk, Cambridge, Huntingdon, Northampton, and Lincoln, drained by the Earl of Bedford in 1649. By Car. II. c. 17, conveyances of these lands must be registered.

Beerhouse, one where beer is sold to be drunk either on or off the premises; Beershop, off the premises only.

Begin, Right to. This right rests with the party on whom is the onus of proving the affirmative.

Bench, or Banc, a tribunal of justice; (2) the judges, as distinguished from the Bar.

Benchers, seniors in the Inns of Court, entrusted with their government or direction.

Bench warrant, an attachment issued by order of a criminal court against an individual for contempt, or for the purpose of arresting a person accused. It may also be signed and issued by a judge or by two justices of the peace.

Benefice, an ecclesiastical living, usually parochial.

Beneficiary, he that is in possession of a benefice; also a cestui que trust (q. v.).

Beneficio primo ecclesiastico habendo, an ancient writ, which was addressed by the King to the Lord Chancellor, to bestow the benefice that should first fall in the royal gift, above or under a specified value, upon a person named therein.
Beneficium abstinendi (Roman law), the power of an heir to abstain from accepting the inheritance.

Beneficium cedendarum actionum (Roman law), the privilege by which a surety could, before paying the creditor, compel him to make over to him the actions which belonged to the stipulator, so as to avail himself of them.

Beneficium competentiae (Roman law), a right of certain persons, e.g., partners, not to be condemned beyond such an amount as they could pay without depriving themselves of the necessaries of life.

Beneficium divisionis (Roman law), the right of a co-surety to contribute only rateably with the other solvent sureties.

Beneficium inventarii (Roman law), the privilege which an heir had, by having an inventory taken of the testator's property before he entered into possession of it, to protect himself from liability beyond the amount of the property inventoried.

Beneficium ordinis, excussionis or discussionis (Roman law, Benefit of discussion, Sc.) a privilege by which a surety, called in Scotch law a cautioner, could call on the creditor to sue the principal debtor first, and only to sue the sureties for that which he could not recover from the principal. This privilege is taken away by 19 & 20 Vict. c. 60.

Beneficium separationis (Roman law), the privilege, sometimes granted to creditors, of having the goods of an heir separated from those of the testator; e.g., if the heir was insolvent.

Benefit Building Societies, exist chiefly among the industrial classes for the purpose of raising, by small periodical subscriptions among the members, a fund to assist members in the purchase or lease of land.

Benefit of Clergy, a privilege originally granted to the clergy, and subsequently extended to all persons who could read; whereby they were exempted from trial by the secular courts in criminal cases. Finally abolished by 7 & 8 Geo. IV. c. 28. See Autrefois convict.

Benerth, an ancient service by agricultural tenants.

Benevolence, was nominally a voluntary gratuity made by subjects to the Sovereign, but came to be a forced loan or tax. By the Petition of Right, 3 Car. I., it was declared to be leviabile for the future only with the consent of the House of Commons. See also 1 W. & M., c. 2; Aids.

Benevolent, or Friendly Societies, are those which provide by the subscriptions of their members for the main-
tenance or relief of the members and their families during sickness or old age. They must be registered under the Friendly Societies Acts to acquire a legal status.

Benignè facienda sunt interpretationes, propter simplicitatem laicorum, ut res magis valeat quam percat; et verba intentioni, non à contra, debent inserire. [(In construing written instruments) some latitude of interpretation must be allowed on account of the want of technical knowledge in the general public, so that the instrument may rather be upheld than come to nought; and words must give way to the intention, not govern it.)] It should however be borne in mind in applying this maxim that the intention is not to be gathered from anything outside the instrument.

Bequeath, to make a bequest, or gift of personal property by will. See Legacy.

Berbiage, a rent paid for the depasturing of sheep.

Bercaria, a sheep-fold, or other enclosure to keep sheep.

Berie, Berie, or Berry, a large open field.

Bersa, a limit or bound.

Bersare, to shoot or hunt.

Bestiality, carnal intercourse with the lower animals.

Betaches, laymen using glebe lands.

Better equity. See Equity.

Betting, in public places. See 30 & 31 Vict. c. 134, s. 23, and 31 & 32 Vict. c. 52, s. 3. A stool or umbrella on or under which a person stands to bet is a “place for betting” within 16 & 17 Vict. c. 119.

Beverches, bed works, or customary services done at the bidding of the lord by his inferior tenants.

Beyond seas. See Absence.

Bid, an offer of a price for anything which is being sold by auction. It may be retracted before acceptance, even though there be a condition prohibiting this. See Puffer.

Bigamy, the felonious offence of a husband or wife marrying again during the lifetime of his or her former wife or husband.

Bilanciis deferendis, an obsolete writ addressed to a corporation for the carrying of weights to such a haven, there to weigh wool licensed for transportation.

Bilateral contract, a contract in which both the contracting parties are bound to fulfil obligations reciprocally towards each other.

Bilboes, a punishment at sea answering to the stocks.
Bilinguis, one who uses two languages. See *Jury de medietae linguae*.

**Bill**, the original draft submitted to Parliament, which when passed becomes a statute (*q.v.*); (2) *Bill in Chancery*, or *Equity*, a printed or written statement of a plaintiff's case, forming the ground of his application to the Court and of a claim for relief. Since the *Judicature Act, 1875*, its place has been taken by the *Statement of Claim*, and every action is commenced by writ of summons. Bills were (a) original, i.e., initiating proceedings; or (b) not original or secondary, *e.g.*, supplemental bills, and bills of review, *revivor*, &c. (*q.v.*). Bills were also divisible into those which prayed relief and those which did not; *e.g.*, bills for *perpetuation of testimony* (*q.v.*).

**Bill Chamber** (Sc.), a department of the Court of Session.

**Bill in Criminal Cases**, an indictment presented to a grand jury. According as they consider it well founded or otherwise, they endorse it "a true bill," or "not a true bill," "not found."

**Bill of Adventure.** See *Adventure*.

**Bill of Appeal of felony.** See *Battel*.

**Bill of Attainder**, a bill declaring persons attainted and their property confiscated. See *Attainder*.

**Bill of Complaint.** Same as *Bill (2).*

**Bill of Conformity**, a bill filed by an executor or administrator, when the affairs of the deceased were so much involved that he could not safely administer the estate, except under the direction of the Court of Chancery.

**Bill of Costs**, an account of the charges and disbursement of solicitor, incurred in the conduct of his client's business. It must be delivered, signed, to the client, one *calendar* month before an action can be brought to recover the amount thereof, in order to give the client an opportunity of taxing it. Conveyancing costs are taxable. An executor or administrator of a solicitor must also deliver a bill of costs, signed, before he can sue upon it.

**Bill of Credit.** See *Letter*.

**Bill of Debt, or Bill Obligatory**, an acknowledgment in writing of debt, specifying the amount and the date and place of payment.

**Bill of Entry**, an account of the goods entered at the custom house, both inwards and outwards, and specifying (inter alia) the name of the merchant and the nature of the goods.

**Bill of Exceptions.** If, prior to the *Judicature Act, 1875*, Order LVIII., a judge misdirected the jury, or otherwise mistook the law, he was required by the counsel of the party
aggrieved to sign a bill of exceptions, i.e., a document containing
the objections raised to his ruling, so that the point might be
settled by a Court of Error. The present mode of proceeding is
by motion for a new trial.

Bill of Exchange, an unconditional order in writing ad-
dressed by one person to another, signed by the person giving it,
requiring the person to whom it is addressed to pay on demand
or at a fixed or determinable future time a sum certain in money
to, or to the order of, a specified person, or to bearer. The law
on this subject has been codified by 45 & 46 Vict. c. 61. See
Acceptance, Accommodation, Days of Grace, Indorsement, Dish-
honour, Protest, Equity, Set.

Bill of Health, a document delivered by the consul to a
ship's master on clearing out from a port, certifying the sanitary
condition of the place. It may be clean, suspected (touched), or
foul.

Bill of Indemnity, an act of parliament, passed every ses-
sion, until 1869, for the relief of those who had unwittingly or
unavoidably neglected to take the necessary oaths, &c., required
for the purpose of qualifying them to hold their respective offices.
See 31 & 32 Vict. c. 72, s. 18.

Bill of Lading, a memorandum signed by masters of ships,
in their capacity of carriers, acknowledging the receipt of mer-
chants' goods; it is usually in three parts, of which one is kept
by the consignor, one is given to the master, and the third is
sent to the consignee. It specifies the name of the ship and
master, the destination of the ship, the goods, the consignee,
and the rate of freight.

Bill of Middlesex, a fictitious mode of giving the Court of
Queen's Bench jurisdiction in personal actions, by arresting a
defendant for a supposed trespass. Abolished by 2 Wm. IV.
c. 39.

Bill of Pains and Penalties, a special act of the legislature,
whereby any punishment, less than death, may be inflicted upon
persons supposed to be guilty of treason or felony, without any
conviction in the ordinary course of judicial proceedings.

Bill of Particulars, a statement of a plaintiff's cause of
action, or of a defendant's set-off.

Bill of Peace. See Peace.

Bill of Proof, proceedings by one who claims to be the real
owner of goods sought to be attached, to establish his title.

Bill of Review, one filed to obtain a reversal of a decree in
Chancery, duly signed and enrolled. A bill in the nature of a
bill of review was filed where the decree had not been enrolled.
If, however, no other evidence was tendered, the re-hearing was usually on petition. A supplemental bill in the nature of a bill of review prayed that the cause might be heard with respect to new matter made the subject of the supplemental bill, at the same time that it was re-heard upon the original bill. All three bills are, since the Judicature Act, replaced by the procedure on Appeal (q. v.).

Bill of Revivor, one filed to revive an abated suit. Now abolished.

Bill of Rights, a declaration delivered by the Lords and Commons to the Prince and Princess of Orange, 13th February, 1689, and afterwards enacted in parliament, when they became King and Queen, declaring illegal certain acts of the late King.

Bill of Sale, an assignment by deed of chattels-personal. It may be (a) absolute, (b) by way of mortgage. If absolute, it must be accompanied by transfer of possession to the grantee, since the continuance of the assigned chattels in the possession of the grantor gives rise to a presumption of fraud. If by way of mortgage, which is the more general case, a bill of sale must be attested and registered within seven days, and must set forth the consideration for which it is given; otherwise it is void. The Bills of Sale Act, 1882, amending that of 1878, prescribes a form of bill of sale by way of mortgage, and makes void all bills (b) not made in accordance with it, or given in consideration of a sum less than 30l. See 45 & 46 Vict. c. 43. (3) The method of transferring a ship.

Bill of Sight, an imperfect and preliminary bill of entry (q. v.), describing goods to the best of the merchant's belief.

Bill of Sufferance, a license granted to a merchant to trade from one English port to another, without paying custom.

Billa vera, a true bill. See Grand Jury, Ignoramus.

Billet, a soldier's quarters in a civilian's house, as to the regulations concerning which see the Mutiny Acts.

Bills of Mortality, returns of death in the metropolis, made before the institution of the present system of registration. See Burial.

Bipartite, of two parts.

Birds. Domestic fowls and tame pigeons and pheasants are subjects of larceny. Certain wild birds are protected by statute during their breeding season. See Game.

Birretum, the cap or coif of a judge or serjeant-at-law.

Birth. See Registration. Concealing birth is a misdemeanor.
Bis-cot, a fine of 2s. for not repairing banks, ditches, &c.

Bis dat qui cito dat. (He gives double who gives promptly.)

Bishop, an ecclesiastical dignitary nominated by the Crown; chief of the clergy within his diocese. Suffragan bishop, one who acts for an absent bishop. See Congé d'Elire.

Bishop's Court, an ecclesiastical court, held in the cathedral of each diocese, the judge whereof is the bishop's chancellor, who judges by the civil canon law; and if the diocese be large, he has his commissaries in remote parts, who hold consistory courts, for matters limited to them by their commission.

Bissextile, leap year, which happens every fourth year, and contains 366 days. The extra day was by Julius Caesar appointed to be the day before the 24th of February, which was the sixth before the Kalends, so that the intercalated day was called the double sextile or bis-sextile. It is now the 29th of February.

Black Rod, Gentleman Usher of, an officer who during the session of parliament attends on the peers, and to whose custody all peers impeached for any crime or contempt are first committed.

Black-ward, a sub-vassal.

Blanch-holding (Sc.), an ancient tenure, the duty payable being nominal, as a penny or a peppercorn, if required.

Blank Acceptance. An acceptance written on the paper before the bill is made, and delivered by the acceptor, and which will charge the acceptor to any extent warranted by the stamp.

Blank Bar, common bar, a plea in bar, which, in an action of trespass, was resorted to to compel the plaintiff to assign, or name, the place where a trespass was committed.

Blank Indorsement, is one where the name of the indorser, and not of the indorsee, is written on an instrument.

Blanks, a kind of white money (value 8d.) coined by Henry V. in those parts of France which were then subject to England; forbidden to be current in this realm by 2 Hen. VI. c. 9.

Blasphemy, the offence of speaking against God, Jesus Christ, the Bible, or the Book of Common Prayer, with intent to excite contempt against the Established Religion, or to promote immorality.

Blended Fund, the aggregate proceeds of the sale of real and personal estate; e.g., of a testator.

Blockade (generally used of a port), is the maintenance of vessels of war outside a port so as to prevent the ingress or egress of ships. Vessels attempting to pass it are liable to confiscation.
Blood, that quality or relationship which enables a person to succeed to another by descent. See Attainder. The whole blood is where persons have the same parents or ancestors; the half blood is where (e.g.) they have the same father but different mothers. The difference between these two relationships in the matter of inheritance was abolished by 3 & 4 Wm. IV. c. 106.

Bloodwit (Sc.), a riot in which blood is spilt.

Boc, a charter.

Bock-hord, or Book-hoard, a place where books, documentary evidence, or writings are kept.

Bock-land, Boc-land, or Book-land, also called charter-land or deed-land, was, under the Saxon system, land held by deed under certain rents and services, and in effect differed in no respect from free-soeage lands. See Folc.

Body, the main part of any instrument; in deeds it is spoken of as distinguished from the recitals and introductory parts and from the signatures; in affidavits, from the title, and jurat. (2) In writs it is used of the person who is to be apprehended. (3) Body politic, a corporation, a State.

Bona. This term, according to the Roman Law, includes all sorts of property, movable and immovable.

Bona fide, with good faith, i.e., without fraud or unfair dealing, whether it consists in simulation or dissimulation. A bona fide holder of a security generally means one who has no notice of any defect attaching to it.

Bona forisfacta (Roman law), goods forfeited to the fiscus or treasury, also called Bona confiscata.

Bona notabilia, notable goods, i.e., goods sufficient in amount to require, under the Ecclesiastical Law, probate or administration to be taken out. They were fixed by the 93rd canon (excepting in London, where the sum is 10l.), to be legal personal estate to the value of 5l. or upwards. See Probate.

Bona patria, an assize of countrymen or good neighbours; sometimes called assiza bona patriae.

Bona vacantia. See Waif.

Bona waviata, (1) (Roman law), property of an intestate. (2) Goods thrown away by a thief in his flight for fear of being apprehended. They are given to the Crown by the law, as a punishment upon the owner for not himself pursuing the felon and taking away his goods from him; but if the owner prosecutes the thief to conviction the goods are restored. (3) Waifs (q. v.).

Bond, a written acknowledgment of a debt or contract to pay, under seal. If this be all, it is called a simple or single
bond. If a condition be added that the bond shall be void when the obligor, or giver of it, shall have performed an act specified, it is called double or conditional. The person to whom the undertaking is given is the obligee. See Bail, Bottomry, Post Obit, Replevin. (2) An instrument of indebtedness issued by governments and companies.

Bond of Corroboration (Sc.), an additional obligation granted by the obligor of a bond to the obligee or his representative, whereby he cororoborates (confirms or strengthens) the original bond.

Bond-creditor, a creditor whose debt is secured by a bond.

Bondsman, a surety.

Bond-tenants, copyholders and customary tenants.

Boni judicis est ampliare jurisdictionem.—(It is the duty of a good judge to enlarge his jurisdiction, i.e. "to amplify the remedies of the law, and, without usurping jurisdiction, to apply its rules to the advancement of substantial justice."

Boni judicis est causas litium dirimere et interest reipublicae ut sit finis litium.—(It is the duty of a good judge to prevent litigation; and it is for the benefit of the State that there should be an end of law suits.)

Bonis asportatis, (Writ De,) a writ of trespass for the wrongful taking of chattels.

Bonis non amovendis (that the goods be not removed), a writ addressed to the sheriff, where error was brought, commanding that the person against whom judgment is obtained be not suffered to remove his goods, till the error be tried and determined. (2) See Administration de bonis non.

Bonitarian right, the right of possession.

Bono et malo (Writ de), a special writ of gaol delivery, which issued for every prisoner. Now abolished.

Bonus, premium or advantage. (2) An occasional extra dividend given by a company to its shareholders,

Book-land, that which is held by deed. See Bock.


Booty of War, property captured by an army: it belongs by right to the Crown, but is usually granted to the captors, whose claims to it are decided by the Admiralty Division of the High Court. See Capture.

Bord-brigch, a breach or violation of suretyship, pledge-breach, or breach of mutual fidelity.

Border Warrant, a process granted by a judge ordinary, on either side of the border between England and Scotland, for
arresting the person or effects of a person living on the opposite side, until he find security to abide trial (judicio sisti).

- Borough, a town that sends a burgess or burgesses to parliament; also called a Parliamentary Borough. (2) A borough corporate. See Municipal Corporation. (3) See Burgage.

Borough Courts, local borough tribunals, held by prescription, charter, or act of parliament. They are Courts of Record, and usually the Recorder of the borough is the judge.

Borough-English, or Postremo-geniture, a custom of Saxon origin, occasionally met with in burgage tenemental lands, whereby if a person have many sons and die intestate, the youngest son inherits all the realty which belonged to his father, situated within such borough.

Borough Fund, the revenues of a municipal borough derived from the rents and produce of the land, &c., belonging to it in its corporate capacity, and supplemented if necessary by a borough rate. See 45 & 46 Vict. c. 50, s. 138, &c.

Borough Sessions, courts established in boroughs under the Municipal Corporations Act (45 & 46 Vict. c. 50), and held by the Recorder once a quarter or oftener.

Bote, an obsolete term, signifying necessaries for housekeeping, or husbandry; e.g., house bote, firewood; plough bote, wood for repairing instruments of husbandry. (2) Reparation for injury; e.g., man bote, for homicide. See Estovers.

Bottom, a valley; (2) a ship.

Bottomry or Bummaree, a species of mortgage or hypothecation of a ship, by which she and her freight or cargo are pledged as a security for the repayment of a sum of money. If the ship be totally lost, the lender loses his money; but if she return safely, he recovers his principal, together with the interest agreed upon, which is at a high rate corresponding to the risk. The contract may be by deed-poll, which is called a bottomry bill, or by bond, called a bottomry bond. See Respondentia.

Bough, of a tree, was given formerly as a symbol of seisin.

Bought and sold notes, documents delivered by a broker to his principals on the conclusion of a sale of stock, &c., containing particulars of the transaction.

Bound or Boundary, the limit or dividing line of two pieces of land. See Abuttal, and 31 & 32 Vict. c. 46.

Bounty, a premium given by a government to manufacturers and others to encourage particular industries.

Bovill's Act. See Partnership. (2) 23 & 24 Vict. c. 34, standing with Petitions of Right (q. v.).
Box-days, days appointed by the Scotch Court of Session for the lodging of necessary papers during vacation.

Bracton, the author of the treatise entitled *De Legibus et Consuetudinibus Angliae*, written temp. Henry III.

Brawling, the offence of quarrelling or creating a disturbance in the church or churchyard.

Breach, a breaking, is either the invasion of a right or the violation of a duty. It may be *actual* or *constructive*. To assign breaches, in an action, is to specify them in the pleadings.

Breach of close, an unwarrantable entry on another's land. See Trespass.

Breach of covenant, a violation of an agreement contained in a deed either to do or not to do some act; it is a civil injury.

Breach of peace, an offence against the public, which may be either *actual*, *constructive*, by tending to make others break it, or *apprehended*.

Breach of pound, the breaking any pound or place where cattle or goods distrained are deposited, to rescue such distress.

Breach of prison, an escape by a prisoner lawfully in prison.

Breach of promise of marriage, a violation of a promise to marry, which gives rise to an action of damages, unless the breach was justifiable, *e.g.* on the ground of want of chastity.

Breach of trust, a violation of duty by a trustee. Since 1857 this is a misdemeanor.

Breaking bulk, making use of an article; this prevents a buyer from objecting to it and returning it to the seller.

Breaking of arrestment (Sc.), is the contempt of the law committed by an arrestee who disregards the arrestment used in his hands, and pays the sum or delivers the goods arrested to the debtor. See Arrestment.

Breed-bate, a barretor. See Barratry.

Brehon Law, a traditional and customary law, formerly in force in Ireland. Abolished by 40 Edw. III.

Bretoise, the law of the Welsh Marches, observed by the Ancient Britons.

Breve, a writ.

Brevet, a commission conferring on an officer in the Army a rank immediately above that which he holds in his own regiment, without, however, giving him increased pay.

Brevia magistralia, official write framed by the Clerks in Chancery to meet new injuries, to which the old forms of action were inapplicable. See Trespass on the Case.
Brevia testata, short attested memoranda, originally introduced to obviate the uncertainty arising from parol feoffments; hence modern conveyances have gradually arisen.

Brevibus et rotulis liberandis, a writ to a sheriff to deliver to his successor the county, and appurtenances, with the rolls, briefs, and all other things belonging to his office.

Bribery, the offence of influencing by gift or reward a person in the exercise of a judicial or public duty. The law against bribery was extended to Municipal Elections by 45 & 46 Vict. c. 50, s. 77. By the Corrupt and Illegal Practices Prevention Act, 1883, c. 51, the law against bribery at parliamentary elections has been made much more stringent; certain practices, viz., treating, undue influence, bribery and personation, being defined as "corrupt," and certain others, such as the hiring of conveyances for voters, as "illegal;" and the expenses of candidates being restricted by a scale varying with the number of electors on the register.

Bridewell, a house of correction.

Brief, an abbreviated statement of the pleadings, proofs, and affidavits in any legal proceeding, with a concise narrative of the facts and merits of the plaintiff's case, or the defendant's defence, for the instruction of counsel at the trial or hearing. Hand-brief, was one indorsed by counsel, upon which orders of course (q.v.) were obtained. (2) A writ. (3) A letter.

Brief al'evesque, a writ to the bishop by which, in quare impedit, an incumbent was removed unless he recovered judgment, or was presented pendente lite.

Bristol bargain, is where, e.g., A. lends B. 1000l. on good security, and it is agreed that 500l., together with interest, shall be paid at a time stated; and that B. should further pay to A. 100l. per annum for seven years.

Britton, a work on English law, written temp. Edward I., of uncertain authorship, and founded on Bracton and Fleta.

Brocage or Brokerage, the wage or commission of a broker. See Marriage.

Brocards, law maxims.

Broker, an agent employed to make contracts in matters of trade, and to find persons who may be willing to enter into such contracts. He is paid by a commission on brokerage. See Ship, Stock, Insurance, Factor.

Building Lease, a lease of land for a long term of years, the lessee covenanting to build thereon.

Building Society. See Benefit.
Bull (Stock Exchange), one who speculates for a rise in the market.

Bum-bailiff (Bound-bailiff). See Bailiff.

Burden of proof. A prominent canon of evidence is that the point in issue is to be proved by the party who asserts the affirmative, according to the maxims, *Et incumbit probatio qui dicit, non qui negat,* and *Affirmanti non neganti incumbit probatio.* The burden of proof, or *onus probandi,* is said to be shifted, when a person has adduced sufficient evidence to raise a presumption that what he alleges is true. See Evidence, Proof.

Burgage-holding (Sc.), one by which lands in royal boroughs in Scotland are held of the Sovereign.

Burgage-tenure, one whereby houses and lands in ancient boroughs are held of the lord. Some of these boroughs have been disfranchised, and continue such only in name and by virtue of their ancient customs. See Borough-English.

Burgess, an inhabitant of a borough. (2) A representative of a borough in Parliament. (3) Under the Municipal Corporations Act, one who is entitled to vote on the election of the "council."

Burgh (Sc.), equivalent to the English "borough."

Burgh-bote. See Bote.

Burglary, a breaking and entering by night into or out of a dwelling-house with intent to commit a felony. *Breaking,* in the eye of the law, includes entering a house by fraud, threats, or collusion. "Night" here means the interval between 9 p.m., and 6 a.m.

Burial. By the Common Law every one, not within certain ecclesiastical prohibitions (e.g. being unbaptised), is entitled to be buried in the churchyard of the parish where he dies; but not within the church without leave of the incumbent, except by prescriptive right. Under the Burial Acts, Burial Boards are appointed to provide additional graveyards where necessary. See Registration.

Butlerage. See Prisage.

By-laws, or Bye-laws, the laws, regulations, and constitutions made under the authority of Parliament, by companies, corporations, &c., for the government of their members, the management of their business, and the like.
C, inscribed upon a ballot in the Roman Courts of Judicature, stood for *condemno*.


Ca. Sa. *Capias ad satisfaciendum* (*q.v.*).

Cachet, *Lettres de*, letters issued and signed by the kings of France, and counter-signed by a secretary of state, authorizing the imprisonment of a person.

Cadit *questio*, "the argument is at end."

Caduca (*Rom. law*), the lapse of a testamentary disposition.

Caducial clause (*Sc.*), that by which settled property is made to revert to the settlor or his heirs.

Caesarian operation. When a child is saved by this after the mother's death, the husband cannot take as tenant by the curtesy.

Cairn's Act (*Lord*), 21 & 22 Vict. c. 27, enables the Court of Chancery to award damages in cases of specific performance, &c.

Calendar, see *Month*. (2) The list of prisoners at assizes.

Call, a demand for money by a company from its shareholders. (2) The election of students to the degree of barrister. (3) See *Option*.

Calling the Jury, successively drawing out of a box the names of the jurors on the panels annexed to the *nisi prius* record, and calling them over in the order in which they are so drawn. The twelve whose names are first called, and who appear, are sworn as the jury, in the absence of some just cause of challenge or excuse.

Calling the plaintiff. The old method of *non-suiting* (*q.v.*) a plaintiff.

Calling upon a prisoner. See *Allocautus*.

Calumnia (*Rom. law*), malicious prosecution.

Calumny (*Oath of*) (*Sc.*), an oath formerly taken by both parties to an action that the facts alleged by them were true. Since 1715 it has fallen into disuse, except in consistorial actions, *i.e.*, matrimonial causes.

Calvin's case (7 Rep. 1), decided that persons born in Scotland after the accession of James I. to the Crown of England were natural-born English subjects.

Camera, the judge's private room behind the Court. Cases are sometimes heard there by him, especially in divorce matters.
Camera stellata, the Star Chamber, a court originally created to prevent the obstruction of justice in the inferior courts by undue influence. It consisted of the Privy Council, the Common Law Judges, and Peers of Parliament. Its authority was enlarged and confirmed by Rot. Parl. 3 Hen. VII. n. 17, fell subsequently into abuse, and was abolished in the reign of Charles I.

Campbell's Act, 9 & 10 Vict. c. 93, whereby (as amended by 27 & 28 Vict. c. 115) a right of action is given to certain relatives of a person whose death has been caused by a wrongful act, against the person who committed such act.

Cancellation, an invalidation or revocation of an instrument by lines drawn across it (cancelli). A deed is usually cancelled by striking out the signatures and tearing off the seal.

Cancelli (lattice work), the rails inclosing the bar of a court of justice or the communion-table. See Cancellation.

Candlemas day, the 2nd of February. It is the fourth of the four half or cross quarter-days of the year (used in Scotland as quarter-days), the others being Whitunday (fixed on May 15), Lammas, and Martinmas.

Canon, in Eccles. law, a rule of the jus canonicum contained in the Decretum Gratiani. (2) A rule of ecclesiastical conduct promulgated by Convocation. (3) In civil law, a rule; e.g., the canons of inheritance. (4) A member of a Chapter.

Canon law, a body of Roman Ecclesiastical law first codified by Gratianus in 1139 (see Decretum Gratiani). This and five subsequent collections form the Corpus Juris Canonici. In England the Canon law (or Canons of the Church) consists of certain Ecclesiastical laws, or Constitutions, which were ratified after the Reformation, by 25 Hen. VIII. c. 19, so far as they are not repugnant to the law of the land. They were revised in 1603, and again in 1865.

Canons of inheritance, the rules directing the descent of real property in cases of intestacy. See 3 & 4 Wm. IV. c. 106.

Cantred or Kantress, a hundred villages (Welsh term).

Cap of maintenance, one of the regalia or ornaments of the Sovereign: also used by some provincial mayors.

Capacity, the power to alter one's legal position, e.g., by alienating property, committing crime, &c. This a lunatic has not, and infants and married women only in a modified degree. As to married women, however, see 45 & 46 Vict. c. 75.

Cape, a judicial writ touching a plea of lands or tenements, divided into capé magnum, or the grand cape, which lay, before appearance, to summon the tenant to answer the default and
also over to the demandment; the *cape ad valentiam*, which was a species of grand cape; and the *cape parvenu*, or *petit cape*, after appearance or view granted, summoning the tenant to answer the default only.

**Capias** (*that you take*), a generic name for writs (usually addressed to the sheriff), ordering the person to whom they are addressed to arrest a person therein named. See *Mesne Process*, and the following heads.

**Capias ad audiendum judicium**, a writ issued in case the defendant be found guilty of a misdemeanor (the trial of which may, and does usually, happen in his absence, after he has once appeared), to bring him up to the Court to receive sentence; if he abscond, he may be prosecuted to outlawry.

**Capias ad respondendum**, a writ issued for the arrest of a person against whom an indictment for misdemeanor has been found, in order that he may be arraigned. (2) Under the old practice, it issued against an absconding debtor, who was then made to give special bail.

**Capias ad satisfaciendum**, or *ca. sa.*, a writ whereby a defendant in a civil action, when judgment has been recovered against him for a sum of money, is arrested and held in prison until payment is made. By the Debtor’s Act, 1869, imprisonment for debt was abolished except in a few cases specified.

**Capias extendi facias**, a writ issueable against a debtor to the Crown (*q. v.*). Obsolete. See *Extent*.

**Capias in withernam** (Anglo-Saxon, *a taking again*). If the goods before or during an action of replevin had been eloignred, (i.e., removed or concealed, see *Elongata*), so that the sheriff could not replevy them, then, upon plaint being levied in the County Court by the plaintiff, this writ was issued directing the sheriff to take other goods instead of those eloigned. Now obsolete. See *Replevin*. This writ could also be sued out by a defendant who had obtained judgment in replevin against the plaintiff.

**Capias pro fine**, or *Misericordia*. Formerly if the verdict was for the defendant, the plaintiff was adjudged to be amerced for his false claim; but if the verdict was for the plaintiff, then in all actions *vi et armis*, or where the defendant, in his pleading, had falsely denied his own deed, the judgment contained an award of a *capiatur pro fine*; in all other cases, the defendant was adjudged to be amerced.

**Capias utlagatum** (*seize the outlaw*). This writ is either *general*, against the person only; or *special*, against the person,
lands, and goods. Outlawry having been abolished in civil cases, this writ is rarely issued.

**Capita (heads).** Distribution of personalty *per capita* happens when all the claimants claim in their own right, as kindred in the same degree; this being opposed to a claim *per stirpes* (*q.v.*), as representing another person whose right or share they claim. (2) Boundaries.

**Capital felonies,** those crimes upon conviction of which the offender is condemned to be hanged. The crimes now punishable with death are high treason and murder.

**Caption,** that part of a legal instrument or record, *e.g.*, a commission or indictment, which shows where, when, and by what authority it is taken, found, or executed.

**Capitation tax, grant, &c.,** is one raised or made according to the *heads, i.e.*, from or for each one of a community, school, &c.

**Capite, Tenure in,** the holding of land direct from the sovereign.

**Capture,** is in some cases, *e.g.*, that of *animals ferae naturae* (*q.v.*), a mode of acquiring property. (2) Seizure of the property of an enemy. See *Booty, Prize, Reprisals.* Capture at sea can only be lawfully made by persons holding a commission from their government. See *Piracy.* *Actual Captors* are the crew of the ship to which the prize strikes its flag; *constructive,* those belonging to ships that assisted, or were at hand.

**Carcel-age, prison-fees.**

**Carrier,** one who receives goods for hire to convey from one place to another. If he does so as his regular business, he is a *common carrier;* if by special contract, a bailee. See *Bailment.* A *common carrier* is bound to carry the goods of any one who offers to pay his hire, and is liable for loss or injury to them. This liability is, however, restricted by the *Carriers Acts* of 1831 and 1865.

**Cartel, or Chartel,** an agreement to exchange prisoners: *Cartel-ship,* one in which they are conveyed to be exchanged.

**Carucate, or Carve of land,** a plough-land of 60 to 100 acres.

**Case,** an abbreviation for *Trespass on the Case* (*q.v.*). (2) A statement of facts for counsel's opinion. (3) In House of Lords and Privy Council practice it takes the place of pleadings. (4) A written statement of the facts by an inferior Court, or by justices (see 20 & 21 Vict. c. 43), for the opinion of a superior Court. (5) See *Special Case.*
Cassetur Bill (let the bill be quashed), an entry on the record that the plaintiff withdraws his bill. So in the old common law practice, cassetur breve, which was equivalent to the modern notice of discontinuance (q. v.).

Cast, defeated at law, condemned in costs or damages.

Castleward, or Castleyard, a form of Knights service (q. v.).

Casu Consimili, Casu proviso, writs of entry, now abolished.

Casual ejector, the fictitious Richard Roe, the nominal defendant, in the old action of ejectment (q. v.).

Casual Pauper, any destitute person receiving relief. (2) One who is not settled in a parish. See Settlement.

Casus belli, an occurrence giving rise to, or justifying war.

Casus foederis, a case stipulated by treaty, or which comes within the terms of a compact.

Casus omissus, a point unprovided for by statute.

Catalla, Chatts, chattels.

Catching bargain, one made with an expectant heir or reversioner, for inadequate consideration. See Expectant Heir.

Catchland, land in Norfolk so called because it is uncertain to what parish it belongs, and the minister who first seizes the tithes enjoys them for that year.

Catchpole, a sheriff’s officer.

Cats, are not the subject of larceny at common law, but are made so with other “animals ordinarily kept in confinement,” by 24 & 25 Vict. c. 96, s. 21.

Cattle-gate, common for one beast.

Causa causans, the immediate cause. See Causa proxima.

Causa sine qua non, a concurrent cause.

Causa mortis (in prospect of death). See Donatio.

Causa proxima, non remota spectatur.—(The immediate, not the remote cause, is to be regarded.)

Cause, a suit or action; a criminal proceeding by the Crown. In Ecclesiastical law plenary causes are those in which the prescribed order of proceedings must be exactly adhered to; as opposed to summary.

Cause of action, a right to sue. See Limitations.

Cause-list, a printed roll of actions to be tried in the order of their entry.

Caution, Cautionry (Sc.), a species of bail; security.

(2) Notice under the Land Transfer Act, 1875, &c., not to deal
with land the subject of the notice without informing the person
giving the notice.

_Cautioneer (Sc.), a surety._

_Caveat (let him take heed),_ notice entered on the books of a
registry or Court to prevent a certain step being taken, _e.g._, pro-
bate of a will, without informing the _caveator._

_Caveat emptor (let the purchaser beware)._ Where the pur-
chaser does not require a warranty, he, in most cases, has to take
the risk of the article not being of the desired quality.

_Caveat viator. (Let the traveller beware.)_ This applies
where gratuitous permission is given to persons to pass over private
land, who must take the risk of accident arising from negligence
of the owner.

_Cede, to assign or transfer._

_Cedent (Sc.), an assignor._

_Censure,_ a custom observed in certain manors in Devon and
Cornwall, where all persons above the age of sixteen years are
cited to swear fealty to the lord, and to pay a poll-tax. (2) In
Ecclesiastical law, a spiritual punishment.

_Census,_ a numbering of the population; now taken every
ten years. The first was taken in 1801. The census papers now
require _inter alia_ particulars as to name, sex, age, birthplace,
rank, and occupation.

_Central Criminal Court,_ created in 1834 for the trial of
offences committed in the metropolis and certain parts adjoining.
See 4 & 5 Wm. IV. c. 36, _City of London Court._

_Central Office of Supreme Court,_ established by _Judicature
(Officers) Act,_ 1879, to consolidate the offices of the masters, &c.,
of the various divisions of the High Court.

_Cepi corpus et paratum habeo (I have taken the body and
have it ready),_ a return made by the sheriff upon an attachment,
capias, &c., when he has the person, against whom the process
was issued, in custody.

_Cepit in alio loco, a plea in replevin, when the defendant
took the goods in another place than that mentioned in the
declaration._

_Certainty, definiteness of statement, which in criminal
pleadings is—(a) to a certain intent in every particular, where
the Court presumes the negative of everything not affirmed,
and _vice versa_; (b) to a common intent, where the presumption
is in favour of the pleader; (c) to a certain intent in general,
which is intermediate._
Certificate, a statement, usually in writing, given by a person having some official status, relative to some matter within his official knowledge or authority. See Associate, Chief Clerk.

Certification (Sc.), notice to a party in a cause of the course that will be followed if he fails to appear, &c.

Certified copy, one signed and certified as true by the official in whose custody the original is.

Certiorari (to be more fully informed), an original writ or action whereby a cause is removed from an inferior to a superior Court for trial. The record of the proceedings is then transmitted to the superior Court.

Cert-money, quasi certain money. Head-money paid yearly by the residents of several manors to the lords thereof, for the certain keeping of the leet. See Court leet.

Certum est quod certum reddi posset.—(That is certain which can be rendered certain.)

Cess, an assessment, or tax. In Ireland, it was anciently applied to an exaction of victuals, at a certain rate, for soldiers in garrison.

Cessante causâ, cessat effectus.—(The cause ceasing, the effect ceases.)

Cessante ratione legis, cessat ipsa lex.—(The reason of the law ceasing, the law itself ceases.)

Cessavit, an action which lay when a man ceased or ceased to pay rent or perform services due for two years together. Now abolished.

Cesser, the coming to an end; e.g., of a term or annuity.

(2) Proviso for cesser. Where terms for years are created by settlement, it is usual to introduce a proviso that they shall cease in case of—(a) the trusts never arising; (b) their becoming unnecessary or incapable of taking effect; (c) the completed performance of them. By 8 & 9 Vict. c. 112, every term ceases ipso facto when the trusts for which it was created are satisfied.

Cesset executio, a stay of execution in trials of co-defendants where the entire damages have been assessed against the first defendant found guilty, e.g., in actions of trespass.

Cesset processus, a stay of proceedings entered on the record.

Cessio bonorum (Roman law) (a surrender of goods), was the foundation of the modern law of bankruptcy. It operated, however, only as a discharge pro tanto of a man’s debts, but exempted him from imprisonment. The Scotch and French laws conform in this matter to the leading outlines of the Roman law.
Cessio in jure (Roman law), a fictitious suit, in which one person claimed (vindicabant) the thing, the person who was to transfer it acknowledged the justice of the claim, and the magis-
trate pronounced it to be the property (addicabant) of the claimant.

Cession, a yielding up; e.g., of a benefice (Ecclesiastical law).

Cessionary (Sc.), an assignee.

Cessor, a yielding up, ceasing or departing from. (2) One who ceases or neglects so long to perform a duty that he thereby incur the danger of the law.

Cestui que trust, the person who possesses the equitable or beneficial right to property, the legal estate of which is vested in a trustee. Also called a beneficiary.

Cestui que use (orig. cestui à que use), previous to 27 Hen. VIII. c. 10, was equivalent to a cestui que trust (q. v.). That statute converted his equitable estate in land into a legal one. See Statute of Uses.

Cestui que vie, the person for whose life any lands, tenements, or hereditaments are held by another who is beneficially entitled to them. If any person entitled to such lands, &c., in remainder suspects that the cestui que vie is dead, he may call on the tenant in possession to produce him.

Chaffwax, an officer in Chancery; abolished 1852.

Challenge, an exception or objection. Challenge of jurors may be (i.) to the array (ii.) to the polls; (i.) is an exception to the whole jury on account of partiality in the officer who arrayed the panel. It may be either (a) principal, or (b) for favour, the latter being founded on probable grounds only, (ii.) is an exception to any individual jurymen. It also may be (a) principal, or (b) for favour. Of (a) the chief heads are propter defectum, i.e., want of qualification; and propter afectum, i.e., bias in the jurymen. These are called challenges for cause: in trials for treason or felony fifteen peremptory challenges to a certain number of jurymen are allowed, no cause being assigned. The question raised by a challenge is forthwith tried and decided. See Prior, Elisor, Jury.

Challenge to fight, Sending or bearing a, is a misdeema-
nor punishable by fine and imprisonment.

Chambers, Judges’, are quasi-private rooms, in which the judges dispose of points of practice and other matters not suffi-
ciently important to be heard and argued in Court.

Chambers of the king [Regiae Camerae], bays or portions of the sea cut off by lines drawn from one promontory to another.
Champarty, or Champerty, a bargain between a plaintiff or defendant in a suit and a third person, or champertor, camptum partiri, i.e. to divide between them the land or other matter sued for, in the event of the litigant being successful in the suit, which is thenceforward carried on at the cost of the champertor. (2) The purchase of a right of action. Champerty is illegal. See Maintenance.

Chancel, that part of a church in which the communion table stands. The rector or lay proprietor is bound to repair it.

Chancellor, Lord, the highest judicial functionary in the kingdom, and superior in order of precedence to every temporal lord: (2) of a diocese, a law officer, who holds the Bishop's court: (3) of the Duchy of Lancaster, has jurisdiction by himself or the vice-chancellor his deputy, in matters of equity arising within the Duchy. See Chancery.

Chance-medley, homicide in self-defence, or by misadventure.

Chancery. The common law jurisdiction of the Court of Chancery was more ancient than the equitable, which was thus called its extraordinary jurisdiction. See Petty Bag, Hanaper. The Judicature Act merged the Court of Chancery in the Supreme Court as the Chancery Division of the High Court. The Chancery Court of the Duchy of Lancaster is a court of first instance presided over by a vice-chancellor, and having a local jurisdiction in equity. The appeal from it is to the Court of Appeal. There is also a Chancery Court of York for ecclesiastical matters within the province.

Changer, or Chaunger, an officer belonging to the mint, who exchanges coin for bullion brought in.

Changing of Solicitor, in an action, could not prior to 1883 be effected without an order of a judge for that purpose. By the rules of May, 1883 (see also R. S. C. 1883, Ord. vii. r. 3) it may now be done upon notice of such change being filed in the central office, or district registry.

Chapter, see Dean.

Charge, a liability, (2) an accusation, (3) a judge's summing-up.

Charge-sheet, a paper kept at a police-station to receive each night the names of the persons brought and given into custody, the nature of the accusation, and the name of the accuser.

Charging order, one obtained from a Court or judge charging the funds of a judgment debtor with the judgment debt.
Charitable Trusts Acts, were passed in 1853 and subsequent years, and constituted a board called Charity Commissioners to enquire into the management of endowed charities.

Charitable Uses, see Mortmain.

Charity, a gift for the benefit of the public or of some part thereof. See also 43 Eliz. c. 4.

Charta Chirographata or Communis, an indenture.

Charter, an evidence by deed of things done between man and man: (2) Royal, a grant by the Crown, letters patent granting privileges, creating corporations, &c.

Charterer, one who charters or hires a ship for a voyage or a certain period. This is done by a charter-party (divided charter), i.e. an agreement in writing. See Affreightment, Demurrage.

Charter-land, that which is held by deed; cf. Bock-land.

Chase, a privileged place for the preservation of wild beasts of chase, intermediate between a forest and a park.

Chattels, or Catala, goods movable and immovable, except such as are in the nature of freehold or parcel of it. Chattels are (i.) personal, i.e. tangible or appertaining to the person; (ii.) real (also called chattel interests), i.e. interests in land which do not amount to a freehold: these are inter alia (a) for years, (b) from year to year, (c) at will, (d) by sufferance. See Tenancy.

Cheat, the generic term for the fraudulent obtaining of another's property by any deceitful practice not amounting to felony.

Cheaters, see Escheaters.

Cheque, an order addressed by a person to his banker directing him to pay on demand a certain sum to the person therein mentioned. The former is called the drawer, the latter the payee. The law of cheques has been codified by 45 & 46 Vict. c. 61.

Chevage, money formerly paid by way of poll-tax by tenants in vil lenage to their lord; cf. Ammobragium.

Chief, Tenants in, persons who hold their lands immediately under the Crown (in capite).

Chief-rents, the annual payments of freeholders of manors; also denominated quit-rents (quieti reditus).

Chief Baron, the presiding judge in the Court of Exchequer. See Chief Justice of the Common Pleas.

Chief Clerks, of judges in Chancery Division, are officials who transact the greater part of the work in the judge's chambers, including all enquiries and matters of routine.

Chief Judge, the judge of the London Bankruptcy Court. See the Bankruptcy Act, 1883, ss. 92—94.
Chief Justice of England, the presiding judge of the Queen's Bench Division of the High Court.

Chief Justice of the Common Pleas. The presiding judge of the Common Pleas Division. The office with that of the Chief Baron was abolished in 1881, and merged in that of the Chief Justice of England.

Chievance, usury.

Chirographum apud debitorem repertum præsumitur solutum.—(A deed found with the debtor is presumed to be paid.)

Chivalry, Court of, an ancient court of honour.

Chose, a thing, used in divers senses. The most important are:

1. Chose local, a thing annexed to a place, as a mill, &c.
2. Chose transitory, that which is movable, and may be taken away, or carried from place to place.
3. Chose in action, otherwise called chose in suspense, a right to demand by action a debt or sum of money. See Assignment, and Judicature Act, 1873, s. 25 (6).
4. Chose in possession, where a person has not only the right to enjoy but also the actual enjoyment of the thing.

Churches, corn paid to the church.

Church-rates, those by which the expenses of a church are defrayed. Compulsory church rates were abolished in 1868.

Cinque ports, the ports of Dover, Sandwich, Romney, Hastings, and Hythe. The jurisdiction of the Lord Warden over them was abolished in 1855.

Circuits, divisions (now 7) of England and Wales, to each of which judges go from time to time to hold assizes. A winter circuit is occasionally appointed to be held between the Michaelmas and Hilary sittings. See 39 & 40 Vict. c. 57.

Circuit of Action, is where more than one action is brought to effect what one would suffice for. The Judicature Act prevents this as much as possible.

Circular note, see Letters of Credit.

Circumstantial evidence, is evidence from which the fact in question is not directly proved, but is to be inferred; circumstances being proved which either necessarily or usually attend such facts.

Circumstantibus, Tales de, see Tales.

Citation, a summons to appear, applied particularly to process in the spiritual, probate, and matrimonial courts; (2) Citation viis et modis, one posted up in a public place; (3) A reference to authorities in support of an argument.

City, a town corporate, which usually has or has had a bishop and cathedral church.
City of London Court, possesses a local jurisdiction analogous to that of a County Court. The judge is the Recorder or the Common Serjeant. See Mayor's Court.

Civil, stands for the opposite of criminal, of ecclesiastical, of military, or of political.

Civil Bill Court, a tribunal in Ireland with a jurisdiction analogous to that of the County Courts in England.

Civil death. A man is said to be civilly dead when he has been attainted of treason or felony, and, in former times, when he abjured the realm or went into a monastery.

Civil Law, that rule of action which every particular nation, commonwealth, or city has established peculiarly for itself, more properly distinguished by the name of municipal law. (2) The law compiled by the Roman jurists; cf. Roman law.

Civil list, the revenue settled on the Sovereign, out of which are defrayed his personal and household expenses, as well as those for secret or special services. It now amounts to £385,000. See Crown lands.

Civil remedy, one open to a private person, as opposed to a criminal prosecution, which is brought by the Crown.

Claim, the assertion of a right. Prior to 3 & 4 Wm. IV. c. 27 (see s. 11), an entry made peaceably on land by one who had a legal right to do so (or his agent), once in every year and a day. which was called a continual claim, kept alive the right. (2) See Statement of Claim.

Claimant, one who makes a claim. (2) The plaintiff in the old action of ejectment.

Claim of liberty, a suit or petition to the Queen in the Court of Exchequer, to have liberties and franchises confirmed there by the attorney-general.

Clam delinquentes magis puniuntur quam palam.—(Those sinning secretly are punished more severely than those sinning openly.)

Clam, vi, aut precario, by stealth, force, or license.

Clarendon. Constitutions of, were enacted by Henry II. in 1164 to limit the pretensions of the clergy within the realm.

Clarencieux, see Kings-at-Arms.

Clause irritant (Sc.), that clause in a deed which declares void the acts of a tenant for life or other limited proprietor contrary to the conditions on which he holds.

Clause resolutive (Sc.), that which extinguishes his estate. See last title.

Claustra generalis de residuo non ea complexit tur qua non rhusdem sint generis cum iis qua specialistim dicta fuerunt.—(A
general clause concerning the residue does not comprehend those things which are not of the same kind with those which have been specially expressed.)

Clausulae inconsonantae semper inducunt suspicionem.—(Unusual clauses always excite suspicion.)

Clausum fugit, see Close.

Clayton's Case, The rule in, decided that in cases of current accounts, e.g., a banker's, in the absence of an express appropriation by a creditor, the first payment in is to be set against the first paid out.

Clean hands, A man must come into Court with, i.e., he must in the matter of his claim be free from taint of fraud, &c.

Clear days. If a certain number of clear days be given for the doing of any act, the time is to be reckoned exclusively as well of the first day as the last.

Clearance, see Transire.

Clearing, a method adopted by London banks for exchanging their drafts, and settling the difference.

Clerks of Arraigns, do for the judges in criminal courts what the masters do for the judges in civil matters. See Master.

Clerks of Assize, officers who take the place of the associates or masters on the circuits. They record the judicial proceedings.

Clerk of the Crown, see Crown office in Chancery.

Clerk of the House of Commons, one of the chief officers of the lower House. The Crown appoints him by letters patent, and when necessary he can appoint a deputy.

Clerk of the Parliaments, one of the chief officers of the House of Lords.

Clerk of the Peace. His duties are to officiate at sessions of the peace, to prepare indictments, and to record the proceedings of the justices, and to perform a number of special duties in connection with the affairs of the county.

Clerks of Records and Writs, officers of the Court of Chancery, whose duties are now (since 1879) transferred to the Masters of the Supreme Court, and their office abolished.

Clerks of Seats, in the Principal Registry of the Probate Division prepare the grants of probate and letters of administration.

Close, a piece of land. Frangere Clausum, to break close, is to commit trespass (q. v.). (2) Of pleadings, the conclusion, when issue has been joined. (3) Of a bankruptcy, when the property has been realised and distributed.
Close rolls, see Close Writs. Close writs are royal letters, under the Great Seal, which, being not intended for public inspection, are closed and sealed, and recorded in the close rolls.

Club, a voluntary association founded on contract for social or other purposes. It is not, however, a company, a partnership, or even a collection of co-owners. The Court will not interfere with the decision of a club expelling a member, if such decision has been arrived at bonâ fide, and in accordance with the rules of the club. A proprietary club is one in which the expense and risk is borne by a contractor who is paid by members' subscriptions.

Cockpit, the old name for the Judicial Committee of the Privy Council, the room where it sat being on the site of the old cockpit of Whitehall.

Code, a collection or system of laws. The collection of laws and constitutions, made by order of the Emperor Justinian in 528, is distinguished by the appellation of "The Code." The Code Napoléon, or Civil Code of France, is the most celebrated modern code.

Codicil, a supplement to a will, containing anything which the testator wishes to add or alter. It must be executed with the same formalities as a will. See Attestation.

Co-emptio (Roman law), the sale of a wife to a husband.

Cognati, relations by the mother's side.

Cognition (Sc.), finding. See Inquisition of Lunacy. (2) Cognition and sale, the process whereby leave is obtained to sell land of a ward.

Cognitor (Roman law), a person appointed by a party to a suit to conduct it for him.

Cognisance, or Comunance, the hearing of a thing judicially. (2) An acknowledgment of a fine. Hence Cognisor, the person who acknowledged the right of the Cognisee. See Fine. (3) Cognisance for rent, in the action of replevin, is a plea of justification or avowry (q. v.) made by a bailiff or servant.

Cognisance (Judicial). There are certain matters of which a judge is bound to take judicial cognisance without having them proved in evidence: as, e.g., the public statutes of the realm, the privileges of the House of Commons, the Superior Courts and their jurisdiction, and the privileges of their officers. A judge is not bound to take cognisance of current events, however notorious, nor of the law of other countries.

Cognovit (actionem), a defendant's written confession of an action brought against him; i.e., his admission that he has no available defence, and consents to judgment being entered against him.
Co-heir, one of several to whom an inheritance descends.

Coif, a white silk cap, the badge of Serjeants-at-Law.


Collateral, by the side of, indirect:—Collateral security, one added to the principal security, either as secondary or not. (2) Relationship, as opposed to lineal, is that of persons descended from a common ancestor, e.g., cousins. (3) Power, one not coupled with an interest; less correctly, one in gross, i.e., not affecting the estate held by the donee of the power.

Collatio bonorum (Roman law), a bringing into hotchpot (q.v.)

Collation, the comparison of a copy with its original to ascertain its correctness. (2) Of seals, when upon the same label one seal was set on the back or reverse of the other. (3) To a benefice, where the bishop and patron are one and the same person; it thus takes the place of presentation and institution.

Collective Advowson, is one of which the right of patronage is in the bishop. See Collation.

Collegatory, a person who has a legacy left to him in common with other persons.

Colligenda bona (defuncti). In default of representatives and creditors ready to administer to an intestate, the Probate Court may grant to some fit person letters ad colligenda bona, to collect the goods of the deceased, which neither makes him executor nor administrator; his only business being to keep the goods in his safe custody, and guard them from waste or decay.

Collision of ships, the running foul of one another. Where this arises from the neglect of both, each pays the other half the damage sustained.

Colloquium (a talking together), was the term in pleading applied to the statement in declaration for libel or slander, that the libellous or slanderous imputation had reference to the plaintiff.

Collusion, a compact between persons apparently hostile to do some act in order to prejudice a third person, or for some improper purpose. Judgment obtained by collusion is a nullity. See Interpleader.

Colour, a primâ facie right or title. Pleadings in confession and avoidance (q.v.) had to give colour, i.e., to admit some apparent right in the opposite party so as to justify the allegation of new matter. Colour was either express or implied. Obsolete. (2) Colour of right means semblance of right.

Colourable, that which is not what it purports or professes
to be, deceptive, e.g., an alteration made only for the purpose of evading the law of copyright, which leaves the thing substantially as much an infringement as before.

**Combination**, of workmen, an assembly met to perpetrate unlawful acts. See the Conspiracy and Protection of Property Act, 1875.

**Comes**, a count, or sheriff of a county, or *comitatus*.

**Comitatu commisso**, a writ or commission whereby a sheriff is authorized to enter upon the charge of a county.

**Comity of nations**, the obligation granted by courtesy to the laws of one nation within the territories of another.

**Commandite** or **In commendam**, a form of partnership in France (*Société en Commandite*) in which certain of the partners (*commanditaires*) take no active share in the business, but merely lend money to it, and are only liable to the extent of such money.

**Commandam** (*Ecclesia commendata*), a living committed to the care of a clergyman until a proper pastor can be provided.

**Commendation**, in feudal law, was where the owner of land placed himself under the protection of a lord, and became his vassal.

**Commissary**, a delegate of the bishop, who exercises spiritual jurisdiction in distant parts of the diocese.

**Commission**, an authority or order to do some act. When given by the Crown, the persons to whom it is given are often called *commissioners*, e.g., the Railway commissioners. Some commissions are temporary, e.g., of assize, of *oyer and terminer*, to examine witnesses, of the *peace* (*q. v.*).

**Commission-day**, the opening day of the assize.

**Commission Agent or Merchant**, a factor employed to sell goods for a percentage or commission.

**Commission del Credere**, where an agent of a seller undertakes to guarantee to his principal the payment of the purchase-money.

**Commissoria lex** (Roman law), a clause by which a vendor reserved to himself the privilege of rescinding the sale, if the purchaser did not pay his purchase-money at the time agreed on.

**Commitment**, the sending a person to prison by warrant or order, either for a crime, contempt, or contumacy.

**Committee of a Lunatic or Idiot**, the person to whom the custody of the person or property of a lunatic is committed by the Lord Chancellor.

**Committee of Inspection**, persons, not exceeding five nor less than three, chosen by the creditors of a bankrupt to superintend the disposition of the estate by the trustee. See Bankruptcy Act, 1883, s. 22.
Committee of the House, of Lords or of Commons, is a sitting of the House, or of certain members selected for the purpose, to consider special subjects.

Committitur piece, an instrument in writing on parchment, which charges a person, already in prison, in execution at the suit of the person who arrested him.

Commodatum (Roman law), a thing lent for a definite time, to be enjoyed and used under certain conditions, without any pay or reward.

Commodum ex injuriâ sua nemo habere debet. — (No person ought to have advantage from his own wrong.)

Common, a profit which a man has in the land of another, in common with him and others. Except in the case of copyholders it cannot be claimed by custom, but by grant or prescription only. It is of four principal kinds: (a) of pasture; (b) of turbary, i.e., taking peat or turf; (c) of ostovers (q.v.); (d) of piscary, i.e., fishing. Commons may be appendant, i.e., enjoyed by all the freehold tenants of a manor; appurtenant, i.e., attached to the ownership of a particular land or house; in gross, i.e., not connected with tenure, but belonging to individuals; or because of vicinage, i.e., belonging to tenants of adjoining townships or manors. (2) Common also signifies land subject to rights of common. See Tenancy.

Common Bench, a name of the Court of Common Pleas.

Common counts, the general name for certain technical pleas or claims (e.g., indebitatus assumpsit), now abolished by the Judicature Act.

Common employment. See Master.

Common fine, money paid to the lord by his tenants.

Common informer, a person who prosecutes others for breaches of penal laws, and receives part of the penalty for doing so.

Common Law, is opposed (1) to equity; (2) to statute law. In the former sense it includes the Queen’s Bench and the Common Pleas and Exchequer Courts, now merged in the Queen’s Bench Division.

Common Seal, the seal used by a corporation.

Common Serjeant, a judicial officer of the Corporation of the City of London, deputy of the Recorder.

Commonable, a thing over, by, or in respect of, which a right of common may be exercised, e.g., lands, beasts, or messuages.

Commorancy, residence within a certain district.

Commorientes, dying together, e.g., by shipwreck. By
English law there is no presumption as to survivorship in such a case.

Commuted, the conversion of a right to receive a variable or periodical, into a fixed or gross, payment. See Tithe.

Company. See Joint Stock Company.

Compearance (Sc.), appearance of a defendant.

Compendia sunt dispensia.—(Abbreviations are a loss of time; cf. The longest way round is the shortest way home.)

Compester, to till (used of oxen).

Complainant, one who urges a suit or commences a prosecution against another. See Bill.

Composing (Sound of mind).

Composition, an agreement by a debtor with his creditors to pay so much in the pound (which is also called the composition); it is drawn up in the form of a composition deed. (2) See Tithe.

Compound Householder, an occupier of part of a house, who has the franchise by virtue of the rates being paid either by himself or by the owner of the house. See 14 & 15 Vict. c. 14.

Compound interest, interest upon interest, i.e., when the simple interest on a sum of money is added as it becomes due to the principal, and then bears interest, becoming a sort of secondary principal. See Account with rests.

Compounding, a debt, making a Composition (q. v.): (2) a felony, is to enter into an agreement for valuable consideration not to prosecute for felony, or to favour a felon.

Comprint, printing in violation of copyright.

Compromise, settlement of an action by agreement.

Comptroller in Bankruptcy, an officer who until 1883 checked the proceedings and accounts of the trustee in a bankruptcy. This, under the Bankruptcy Act, 1883, ss. 78—81, is done by the Board of Trade.

Compulsory, in eccles. procedure, is a subpoena. (2) See Pilot.

Compurgator, one who on oath asserts another's innocence. Under the early Saxons a person accused of a crime was acquitted, if a certain number (twelve or more) of Compurgatores (juratores or justificatores) came forward, and swore to a veredictum (or true statement) that they believed him innocent. This was also called wager of law; it was abolished after long disuse by 3 & 4 Wm. IV. c. 42.

Computo, an ancient writ to compel a bailiff, receiver, or accountant, to yield up his accounts.

Concealers, persons who were used to find out lands which had been privily appropriated from the Crown.

Concealment, active or fraudulent, is ground for the rescis-
sion of a contract; (2) of birth, by secret disposition of the dead body, is a misdemeanor.

*Concessio versus concedentem latam interpretationem habere debet.*—(A grant ought to have a liberal interpretation, or be strictly construed, against the grantor.)

*Concessit solvere (he granted and agreed to pay)*, an action of debt upon a simple contract. It lies by custom in the London and Bristol city courts.

*Concilium*, A rule for, in proceedings on a writ of error, is one directing the case to be set down for argument.

*Conclude*, to bar, estop. (2) To *conclude for* (Sc.), of pleadings, is to claim.

*Concord*, an agreement between parties, who intend to levy a fine of lands one to the other, how and in what manner the lands shall pass; (2) a compromise.

*Concourse* (Sc.), concurrence. *Concourse of actions* (Sc.), the bringing of more than one action on the same ground.

*Concurrent jurisdiction*, is where different tribunals are authorised to deal with the same subject-matter at the choice of the suitor. (2) *Writ*, a writ of summons of the same tenor as the original writ, and remaining in force for the same time; used where there are several defendants, or it is advisable to serve the same defendant in different places.

*Condemnation*, adjudging a captured vessel to be lawful prize.

*Condescendence* (Sc.), a part of the proceedings in a cause, setting forth the facts of the case on the part of the pursuer or plaintiff.

*Condition*, a declaration or provision which qualifies or defeats an estate or right, making it *conditional* as opposed to absolute. It may be (1) *express* or implied by law; (2) *possible* or impossible; (3) *dependent*, independent, or *mutual*; (4) *precedent* or *subsequent* (q. v.). See *Restraint of Marriage*, *Apportionment*.

*Conditional fee*. See *Base fee*.

*Conditional limitations*, partake of the nature both of a condition and a remainder; of a condition, so far as they abridge or defeat the estates previously limited; of a limitation, so far as, upon the contingency taking effect, they pass the estate to a stranger. They thus differ from a contingent remainder, which waits for the regular determination of the previous estate.

*Conditions of sale*, the terms (as to manner of sale, title, and the like), on which property is offered by the vendor.
Statutory conditions of sale are enacted by 44 & 45 Vict. c. 41, s. 3.

Condonation, a pardoning of a conjugal offence, which prevents it from being made at any future time the subject of legal proceedings.

Conduct-money, money paid to a witness, for his travelling expenses.

Conductio (Roman law), a hiring (q.v.)

Coney, a rabbit. See Game.

Confarreatio (Roman law), the most solemn form of marriage.

Confederacy, a combination of two or more persons to do some damage or injury to another or to commit some unlawful act.

Conference, an interview between counsel and the solicitor who instructs him (with or without his client). (2) Parliamentary, a meeting of the two Houses to reconcile differences, which is effected by appointing persons called managers out of either House to form a deputation.

Confessing error, the affirmative plea to an assignment of error.

Confession and Avoidance, prior to the Judicature Act, was a plea admitting certain facts alleged by the opponents' preceding pleading, but avoiding their legal effect by alleging new matter. These pleas were distinguished as pleas in justification or excuse, and pleas in discharge or release. Now abolished. See Colour.

Confession, Judgment by. See Cognovit.

Confession of defence. Where defendant alleges a ground of defence arising since commencement of the action, the plaintiff may deliver confession of such defence and sign judgment for his costs up to the time of such pleading unless it be otherwise ordered. (R. S. C. 1883, Ord. xxiv. r. 3.) The plaintiff thereby loses all further right of action.

Confession of plea, was the old confession of defence.

Confesso. Bill taken pro. Where defendant did not deliver a defence, the plaintiff was allowed relief on the footing that his pleadings were to be taken as admitted. See R. S. C. 1883, Ord. xxvii. r. 11.

Confidential communications. See Privileged.

Confirmatio Chartarum, the statute 25 Edw. I. A.D. 1297, which re-enacted Magna Charta with some additions.

Confirmation, a species of conveyance by which a voidable estate is made valid and unavoidable, or by which a particular estate is increased. Estates which are void cannot be confirmed, but only those which are voidable. (2) The ratification of bishop's election by the archbishop.
Confiscation, in international law, is the punishment for carrying contraband of war (q.v.). See Pre-emption.

Conflict of laws. In the case where a suit is brought in one country, and the parties (or one of them, or the subject-matter of the suit), belong to another, and the laws of the two countries upon the subject are at variance, there is said to be a conflict of laws. See Lex loci contractus.

Conformity, Bill of. When an executor or administrator found the affairs of his testator or intestate so much involved that he could not safely administer the estate, except under the direction of the Court of Chancery, he filed this bill against the creditors generally for the purpose of having all their claims adjusted, and a final decree settling the order and payment of the assets; to which all parties are bound to conform.

Confrontation, in matrimonial suits, is the bringing of the respondent into Court for identification by the witnesses.

Confusion of Boundaries, If there is, between two estates, the Chancery Division will issue a commission; or if the case be simple, decide them in an action for recovery of land.

Confusion, Property by. Where goods of two persons are so intermixed that the several portions can no longer be distinguished; if the intermixture be by consent, it is supposed that the proprietors have an interest in common, in proportion to their respective shares; but if one wilfully intermix his property with that of another man, without his approbation or knowledge, the law gives the entire property to him whose right is invaded, and endeavoured to be rendered uncertain without his consent.

Congeable, lawful, done with permission.

Congé d'Accorder, leave to accord or agree.

Congé d'Elire, d'Esrire, (leave to choose). A licence from the Crown to a dean and chapter to proceed to the election of a bishop, when a see becomes vacant. It is accompanied by a letter missive, giving the name of the person to be elected.

Conjoint, persons married to each other.

Conjugal rights, see Restitution.

Conjuration, a compact made by persons combining by oath to do any public harm. (2) The attempt to have conference with evil spirits.

Conivance, guilty knowledge of, or abetting in, a crime; and especially, the consent, express or implied, by one spouse to the adultery of the other.

Consanguineus frater (Rom. law), a brother by the father's side; in contradistinction to frater uterinus, the son of the same mother.
Consanguinity, or kindred, the connection or relationship of persons by descent. It is either lineal or collateral.

Consensus, non concubitus, facit matrimonium.—(Consent and not cohabitation, constitutes marriage.)

Consensus tollit errorem.—Consent removes mistake, i.e., where persons are agreed in a mistaken view of the legal effect, e.g., of a phrase, they are bound by the meaning they originally intended to give it. Cf.: Communis error facit jus.

Consent, if obtained by fraud, is not binding. See Order by Consent.

Consentientes et agentes pari poena plectantur.—(Those consenting and those perpetrating are embraced in the same punishment.)

Consequential damages, those losses or injuries which follow an act, but are not direct and immediate upon it.

Conservators of the Peace, officers appointed to preserve the public peace. Some are so by virtue of their office; e.g., judges and coroners: those specially appointed are now called justices of the peace.

Conservators of rivers, commissioners appointed by statute to regulate the navigation, &c., of certain rivers.

Consideration, the price, motive, or matter of inducement of a contract, which must be lawful in itself. A simple contract, i.e., one not under seal, derives its binding force from the existence of a valuable consideration between the parties, but a deed imports a consideration and so is binding though voluntary, i.e., without consideration. Consideration may be executed, past, or performed; executory, to be performed; or continuing, partly both. Good or meritorious consideration is that originating in relationship and natural affection; valuable, that which has a money value. The former was never binding in the eye of the law, except in the case of a covenant to stand seized to uses, which is now disused: and ‘good’ consideration now usually means ‘valuable.’ See Turpis.

Consideratum est per curiam (it has been considered by the Court), the formal commencement of a judgment.

Consignation (Rom. law), the deposit of a thing owed with a third person, under the authority of the Court.

Consignment, the sending of goods to another, usually for purchase. (2) The goods sent.

Consistorial Actions (Sc.), matrimonial causes.

Consistory Court, the Ecclesiastical Court of a diocese.

Consolatio del mare, II, a code of sea-laws compiled by order of the ancient kings of Arragon.

Consolidated Fund, the public revenue, which is derived from customs, excise, stamps, and other taxes.
Consolidation (1) of actions. If two or more actions are brought by the same plaintiff against the same defendant, for causes of action which might have been joined in the same action, the court will in general compel the plaintiff to consolidate them, i.e., have them tried together. And if several actions are brought against the same defendant for the same cause, the Court may stay the proceedings in all but one, which is then tried as a test action. (2) Of Securities, is the right of a mortgagee, whether original or by assignment, who holds more than one mortgage by the same mortgagee, though such mortgages may be of different properties and for distinct debts, to insist, after the time for redemption has expired, that the mortgagee shall not be allowed to redeem one without redeeming the others as well. See now, however, 44 & 45 Vict. c. 41, s. 17. (3) In the Roman law, the uniting the possession, occupancy, or profits of land with the property, and vice versa. (4) In the ecclesiastical law, the uniting two benefices by assent of the ordinary, patron, and incumbent. (5) In the Statute law, the fusing of many Acts of Parliament into one.

Conspiracy, an unlawful combination or agreement between two or more persons to carry into effect a purpose hurtful to some individual, or to particular classes of the community, or to the public at large.

Constables, inferior officers appointed to keep the peace. High or chief are those chosen at the hundred-court; petty or parish, by justices at petty sessions; borough, by the watch committee. Special, are appointed on particular occasions.

Constablewick, the jurisdiction of a constable.

Constat, a certificate of that which appears on the Record. See Inspeiximus.

Constituent, one who appoints an agent or attorney. (2) One who elects by his vote a member of parliament.

Construction, the interpretation of a written instrument.

Constructive, implied by law, though not actual in fact, e.g., notice, trust. (2) That which is effected by the doing of something equivalent: e.g., delivery, when a key is delivered as representing the goods within the warehouse, or a part as representing the whole.

Constructive Notice, the knowledge which the law implies a person to have had, whether he actually had it or not. See 45 & 46 Vict. c. 39, s. 3.

Constructive total loss, in the law of marine insurance, denotes a loss which entitles the insured to claim the whole amount of his insurance, on giving the insurers notice of
abandonment, and relinquishing all right to anything which may be saved of the subject-matter.

Constructive treason, that which is so by mere inference, and not according to the definition given by the law.

Constructive trust, arises when a person is, by reason of his position towards another, invested with a responsibility disabling him from carrying out certain transactions for his own benefit, e.g., a trustee may not renew a lease on his own behalf.

Consueltudinibus et servitiis, a writ to recover arrears of rent.

Consuetudo est optimus interpres legum.—(Custom is the best expounder of the laws.)

Consuetudo ex certâ causâ rationabili usitata privat communem legem.—(A custom founded on a certain and reasonable ground supersedes the common law); e.g., such customs as gavelkind (q. v.), which prevail over the law of descent, though differing from it.

Consul, an official appointed by Government to reside in a foreign country, and there to look after the interests of the subjects of the country which appoints him; e.g., by giving assistance or advice, or by making due representations to the proper authorities.

Consultary response, the opinion of a court of law on a special case.

Consultation, a writ whereby a cause, having been wrongfully removed by prohibition from an ecclesiastical to a temporal court, is returned thither again. (2) A meeting of two or more counsel, with the solicitors instructing them, for the purpose of deliberation.

Consummation, the due completion of a thing; e.g., of marriage. (2) Of tenancy by the curtesy, is when a husband, upon his wife's death, becomes entitled to hold her lands by curtesy (q. v.). His estate becomes initiate upon birth of a child.

Contagious Diseases Acts. As to persons, see 29 Vict. c. 35, and 32 & 33 Vict. c. 96, which Acts apply to certain military and naval stations only. The operation of these Acts was temporarily discontinued in 1883. (2) As to animals, see 41 & 42 Vict. c. 74, the object of which is to prevent the spreading of certain diseases, such as cattle plague, among animals.

Contango (Stock Exchange). See Continuation.

Contemner, one who has committed contempt of court.

Contemporanea expositio est optima et fortissima in lege.—(A contemporaneous interpretation is the best and most authoritative in the eye of the law:—on the ground that the intention of the statute or instrument is then best known.)
Contempt of Court. A disobedience to the rules, orders, process or dignity of a court, which has power to punish for such offence by fine or imprisonment. A person is said to purge or clear his contempt when he expresses contrition and submits himself to the Court. (2) Of Parliament, a violation of the privileges of either House, punishable by commitment, with or without fine.

Contenement, a man's countenance or credit, which he has together with, and by reason of, his freehold. (2) That which is necessary for the support and maintenance of men, agreeably to their several qualities or states of life.

Contentious business, a term used in the Court of Probate, meaning generally the business of obtaining probate or administration when the grant is opposed: non-contentious business is where there is no such opposition.

Contentious jurisdiction, jurisdiction to hear and determine any matter between party and party in an action or other judicial proceeding.

Contestation of suit (Contestatio litis, Rom. law), the plea by a defendant, and joinder of issue in the Ecclesiastical Courts.

Contingency, an uncertain event. When an estate, legacy, &c., is limited so as to depend on a contingency, it is contingent. See Remainder. (2) With a double aspect, when one event only is expressed by the party, and two events are clearly in his contemplation.

Continual claim. See Claim.

Continuance (Notice of Trial by). By this a plaintiff, prior to the Jud. Act, could defer trial to a sitting later than that for which he had originally entered the action. (2) See Puis Darrein.

Continuando. Under the old action of trespass, to lay the action with a continuando was to allege that the defendant's trespass was a continuing one, whereby multiplicity of actions was avoided.

Continuation (Stock Exchange). Settlements of accounts are made on the Stock Exchange once a fortnight. If a buyer of stock, &c., is unable to pay for it, or a seller is unable to produce it, they may by agreement carry over or continue the bargain until the next account day. It may be continued even; but, as a rule, in the former case the buyer pays a contango, which represents a fortnight's interest on the money he is unable or unwilling to pay; in the latter case, the seller pays him a backwardation or fine for non-delivery.
Contra bonos mores, against good morals.

Contra formam collationis, a writ that issued where lands given in perpetuity for religious or charitable purposes were alienated, to the disherison of the religious or charitable institution. By means of this writ the donor or his heirs could recover the lands.

Contra formam feoffamenti, a writ that lay for the heir of a tenant, enfeoffed of certain lands or tenements by charter of feoffment, who was distrained for more services than were mentioned in the charter.

Contra formam statuti ("contrary to the form of the statute in such case made and provided"). The usual conclusion of every indictment, &c., brought for an offence created by statute.

Contra non valentem agere nulla currit præscriptio.—(Time does not run against a person under disability.) This maxim is only true within certain limits fixed by the Statutes of Limitation.

Contra pacem (against the peace). It is generally necessary in indictments to allege that the offence was committed against the peace of our Lady the Queen.

Contraband, goods prohibited to be imported or exported. (2) In International law, those which a neutral may not carry to a belligerent; e.g., munitions of war.

Contract, an agreement between competent parties, upon a legal consideration, to do, or to abstain from doing, some act. Contract in its widest sense includes—(1) those of record, and (2) those under seal, or specialties; but it is usually applied to (3) those not under seal, scil: simple or parol contracts (under which written as well as verbal are included.) See also Agreement, Consideration. A personal contract is one depending on the skill or qualities of one of the parties: a continuing contract, one to perform certain acts from time to time during a stated period: an entire contract, one which cannot be divided into separate parts to be separately performed; e.g., one by a sailor to serve for a certain voyage.

Contract of benevolence, a contract made for the benefit of one of the contracting parties only: e.g., a mandate or deposit.

Contractus ex turpi causâ vel contra bonos mores, nullus.—(A contract arising out of a base consideration, or against morality, is null.)

Contravention, an act done in violation of a legal obligation. (2) (Sc.), the action founded on a breach of law-burrons (q. v).

Contribution, the performance or satisfaction by each of
two or more persons, e.g., sureties, jointly liable by contract or otherwise, of his share of the liability. (2) By an estate, in administration, is the bearing of its proportionate share of the liabilities. (3) In maritime law, *average contribution* is the amount to be contributed by each person towards making good a loss at sea, and is proportioned to the value of the goods he may have shipped. See *Average*.

Contributione facienda, a writ where tenants in common were bound to do some act, and one of them was put to the whole burthen, to compel the rest to make contribution. 

Contributory, a person liable to contribute to the assets of a joint-stock company in the event of the same being wound up. Those who are members at the time of winding-up are primarily liable, and then those who have ceased to be members within the twelve months preceding. The first are called A, the second B, contributories. (2) See *Negligence*.

Contubernium (Roman law), the union of slaves with their master’s consent.

Contumacy, a refusal to appear in court when legally summoned: disobedience to the rules and orders of a court.

Contumace capiendo, a writ issued out of the Court of Chancery for the commitment of a person pronounced by an Ecclesiastical Court to be guilty of contempt.

Conusance, acknowledgment: (2) of *pleas*, jurisdiction; a privilege that a city or town has. See *Cognisance*.

Conusant, knowing or aware of.

Conventio in unum, agreement between two parties upon the sense of the contract proposed.

*Conventio vincit legem.*—[An agreement prevails against (any implication of) law.]

Convention, an assembly of the Houses of Parliament without summons from the Crown. (2) An agreement with a foreign state, e.g., as to the extradition of fugitive offenders.

Conventional estates, those which are created by the express acts of the parties, in contradistinction to those which are legal and arise from the operation of law.

Conventione, a writ for the breach of any covenant in writing, whether real or personal. Obsolete.

Conversion, the wrongful appropriation of the goods of another. See *Trespass*. (2) *Equitable* conversion is the changing of the nature of property, which may be (a) *actual*, e.g., by converting land into money by selling land, or *vice versa*; or (b) *constructive*, where such an operation is assumed to have, though it has not actually, taken place. The property construc-
tively converted immediately assumes the same qualities as if the operation had been actually carried out.

Conveyance, an instrument which transfers property from one person to another. Conveyances are (a) by matter of Record; (b) by matter in Puis; (c) by special custom; e.g., in transferring copyholds. Fraudulent conveyances are those made without valuable consideration (q. v.) to defraud creditors or purchasers; they are invalidated by 13 Eliz. c. 5, and 27 Eliz. c. 4.

Conveyancers, were persons certificated by one of the Inns of Court to carry on the practice of conveyancing without being called to the Bar. They might sue for their fees. This custom has of late fallen into disuse, and the term is used, in contradistinction to Equity Draughtsmen, of barristers who employ themselves chiefly in the preparation of deeds or assurances of property.

Conveyancing, the science and art of the alienation of property by means of appropriate instruments. See the Acts 44 & 45 Vict. c. 41, and 45 & 46 Vict. c. 39.

Conveyancing Counsel, persons appointed by the Lord Chancellor under 15 & 16 Vict. c. 80, s. 41, on whose opinion as to title or conveyance of an estate the Court is empowered to act. They must have practised ten years at the date of their appointment.

Convict, a person sentenced to death or penal servitude for treason or felony. Conviction may be (a) ordinary, or (b) summary by magistrates or justices under statutory powers.

Convocation, an assembly of the clergy. There is one for the province of Canterbury, and another for that of York.

Convoy, ships of war which accompany merchantmen in time of war to protect them from the enemy.

Coparcenary, a tenancy which arises when an inheritable estate descends from the ancestor to several persons possessing an equal title to it, who are called coparceners or parcers: e.g., to daughters by the common law, or to sons by the custom in gavelkind. Parcers form together one heir to their ancestor.

Cope, a custom or tribute due to the crown or lord of the soil, out of the lead mines in Derbyshire. (2) A hill. (3) The roof or covering of a house. (4) A church vestment.

Copy, a transcript of an original document. Office copy, one made by an officer appointed for the purpose, and officially sealed.

Copyhold, a base tenure founded upon immemorial custom. Copyhold estate, one forming parcel of a manor held by copy of the court rolls, and originally by the will of the lord, though this is no longer so. The frehold, before enfranchisement (q. v.)
of copyhold estate is in the lord; but in most respects the ownership of a copyholder is as absolute as that of a freeholder. The method of alienation is by surrender, and admittance of the surrenderee. See Heriot, Fine, Customary Freehold.

Copyhold Commissioners. The tithe commissioners for England and Wales when acting as commissioners for carrying the provisions of the copyhold acts into execution. See Land Commissioners.

Copyright, an incorporeal right, being the exclusive privilege of printing, reprinting, selling, and publishing, his own original work, which the law allows an author. It lasts for his life and seven years, or for forty-two years, whichever is the longer period. It is assignable by an instrument in writing, or by entry in the register. By later statutes it is extended (inter alia) to prints, engravings, sculptures, paintings, designs, and music.

Coram non judice (in presence of a person who is not [the proper] judge). When a suit is brought in a court which has no jurisdiction in the matter, then it is said to be coram non judice, and any judgment which may be delivered is null and void.

Coram paribus (before his peers).

Co-respondent, the man charged by a husband with adultery, and made a party to a suit for dissolution of marriage.

Cornage, a form of tenure in grand sergeancy, by blowing a horn to give warning of an enemy.

Cornwall, Duke of, a title by inheritance of the eldest son of the reigning sovereign. See also Stannary.

Corody, an allowance made by an abbey, &c., founded by the Crown to a person nominated by the latter. Obsolete.

Coronatorem eligendo, or exonerando, the writ issued to the sheriff commanding him to elect or remove a coroner.

Coroner, a person possessing judicial and ministerial functions. In the former capacity his chief duty is to hold inquests, in doing which he may commit for trial any person against whom the jury find a verdict of murder or manslaughter. In the latter he acts as sheriff's substitute. He is chosen for life, and is ipso facto a magistrate and justice of the peace.

Corporal oath, so called because the party taking it lays his hand on the New Testament.

Corporation, an artificial person or body of persons established under a corporate name for preserving in perpetual succession certain rights differing from those of the individuals or corporators who constitute the corporation from time to time. It is either aggregate, consisting of many members, or sole, consisting of one person only. It is also either spiritual (ecclesiastical) or lay—
subdivided into civil, created for temporal, and ecclesiastical, purposes.

Corporeal hereditament, that subject of property which is comprised under the denomination of things real; e.g., lands and houses.

Corpus cum causa, a writ which issued out of Chancery to remove both the body and record touching the cause of any man lying in prison.

Corpus juris civilis, the Institutes, Pandects, and Code (with the Novelle) of Justinian.

Corroborative. See Evidence.

Corruption of Blood. See Attainder.

Cosening, cheating.

Coshering (Irish term), rack rent or tribute.

Cosinage, consanguinity. (2) A writ that lay for the heir whose great grandfather was seised of lands and tenements in fee at his death, against a stranger who entered upon the land and abated. Obsolete.

Cost-Book Mining Companies, are partnerships for the purpose of working a mine under local customs; the partners appoint an agent, commonly called a purser, for the purpose of managing the affairs of the mine, and enter in a book, called the cost-book, their names, agreement, and the number of shares taken by each.

Costs, are (a) of a solicitor, (b) of a litigant. (b) are usually taxed as between party and party, which do not include the whole expenses of the litigant: occasionally, as in the case of trustees, costs are allowed as between solicitor and client, which include substantially the whole costs of the action. Costs de incremento, costs of increase, are the extra expenses incurred, such as witnesses' expenses, fees to counsel, attendances, and Court fees. See Dives, Pauper, Security.

Co-surety, a fellow-surety.

Couchant, lying down (of cattle). See Levant.

Councils of Conciliation, boards of masters and workmen licensed under 30 and 31 Vict. c. 105, for settling trade disputes.

Counsel, a person retained by a client to plead his cause in a court of judicature; a barrister (q.e.).

Count. The different parts of a declaration, each of which, if it stood alone, would constitute a ground for action, were the counts. (2) In criminal law, the several parts of an indictment, each charging a distinct offence. See Common Counts.

Counter-claim. A defendant in an action may set-off, or set up by way of counter-claim any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or
counter-claim has the same effect as a statement of claim in a cross action, so as to enable the Court to pronounce a final judgment in the same action. If, however, the Court considers that the counter-claim cannot be conveniently disposed of in that action, or ought not to be allowed, it may refuse permission to the defendant to avail himself of it. See R. S. C. 1883, ord. xix. r. 3, Set-off.

Counter-deed, a secret writing, either before a notary or under a private seal, which invalidates or alters another.

Counterfeit, an imitation made without lawful authority, and with a view to defraud.

Countermand, to revoke, recall.

Counterpart, the corresponding part or duplicate. Where a deed is executed in several parts or copies by the different parties, that signed by the grantor is the original, the others the counterparts. (2) The key of a cipher.

Counter-rolls, the rolls which sheriffs have with the coroners, containing particulars of their proceedings.

Counter-security, a security given to one who has entered into a bond or become surety for another.

Counter-sign, the signature of a secretary or other subordinate officer to any writing signed by the principal or superior, to vouch for the authenticity of it.

Counties Palatine, are Lancaster and Durham (and formerly Chester). By the Judicature Act the jurisdiction of their Courts of Common Pleas was vested in the High Court; that of the Chancery Court of Lancaster being preserved. They are now in the hands of the Crown.

Countor, a serjeant-at-law, an advocate.

County, a shire or civil division, otherwise called a county at large. A county corporate, or county of a city or town, is a city or town with separate jurisdiction. See Counties.

County Courts, inferior local Courts of Record, established since 1846 for the purpose of providing a cheap and summary mode of procedure, where the sum at stake is small. Besides their ordinary jurisdiction, they have jurisdiction in Admiralty matters up to a certain sum, and in Bankruptcy; and have power under various Acts to settle disputes between employers and workmen.

County Rate, one levied on the occupiers of lands in a county for local purposes.

County Sessions, the general quarter sessions of the peace for each county, held four times a year. They have both civil and criminal jurisdiction.

Court, a place where justice is administered. (2) The judge.
A Court of Record is one in which the proceedings are enrolled.
A superior Court is one which is not subject to the control of any other, except by way of appeal. Courts are also divided into civil, criminal, and ecclesiastical.

Court-Baron, a court which, although not one of record, is incident to every manor, and may be held at any place within the same, on giving due notice. It generally assembles but once in the year. See Presentment, Manor.

Court for Crown Cases Reserved, created by 11 & 12 Vict. c. 78, for the decision of points of law arising in criminal trials, and specially reserved by the judge or justices.

Court-Leet, a court of record, held once a year within a particular hundred or manor, before the steward of the leet. At it petty offences are presented and punished.

Court-martial, for the trial of military or naval offences.

Court of Admiralty. See High Court.

Court of Arches, Audience, &c. See below, and the various titles.

Court of Chivalry was held before the Lord High Constable and Earl Marshal as a court of honour.

Courts of Conscience, the same as Courts of Request.

Court of the Duchy of Lancaster. See Chancery.

Court of Great Session. See Wales.

Court of Hustings, a court in the City of London, analogous to the sheriffs' county court.

Court of Passage, has jurisdiction over causes of action arising within the borough of Liverpool; and also in Admiralty matters.

Court of Peculiars, a branch of the Arches Court.

Court of Probate, took the place of the ecclesiastical and other probate courts in 1857. It is now the Probate, Divorce, and Admiralty Division. See High Court.

Courts of Request, had local jurisdiction in claims for small debts. Supplanted in 1846 by the County Courts.

Court of Review, part of the old Court of Bankruptcy, exercising a supervision over the Commissioners. Abolished in 1847.

Court of Session, the supreme civil court of Scotland, consisting of the Lord President, the Lord Justice Clerk, and eleven ordinary lords.

Courts of Survey, hear appeals by masters or owners of ships from orders for detention of unsafe ships.

Courts of the Universities of Oxford and Cambridge, have civil and criminal jurisdiction in matters affecting their own members.

Cousin-german, a first cousin, or child of an uncle or
aunt; the child (grandchild, &c.) of a first cousin is a cousin once (twice, &c.) removed. Peers are styled cousins of the sovereign.

**Covenant**, an agreement or unilateral contract under seal, *i.e.*, by deed. See *Agreement, Contract*. A covenant is said to *run with the land* (or the *reversion*) when the benefit or burden of it passes to the assignee of the land, &c. See *Title*.

**Covenant to stand seised to uses**, a "voluntary" assurance, operating under the Statute of Uses, and without transfer of possession. Now almost disused.

**Coverture**, the condition of a woman during marriage.

(2) The continuance of the married state.

**Covin**, fraud, collusion.

**Creditor**, one who trusts or gives credit, correlative to debtor. A secured creditor is one who holds property of the debtor in pledge or mortgage, in addition to his promise to pay, express or implied.

**Creditors’ bill**, a bill in equity filed by one or more creditors, by and on behalf of himself or themselves, and all other creditors who shall come in under the decree, for an account of the assets and a due administration of the estate.

**Cretio** (Roman law), the period fixed by a testator within which the heir had to formally declare his intention to accept the inheritance.

**Crime.** A crime is the violation of a right, when considered in reference to the evil tendency of such violation, as regards the community at large. It includes felony and misdemeanor.

**Crimen falsi** (Roman law), forgery.

**Crimen laesae majestatis** (Roman law), treason.

**Crimen repetundarum** (Roman law), bribery.

**Criminal conversation**, adultery. The action of crim. con. is nominally abolished by 20 & 21 Vict. c. 85, s. 59, but an equivalent right to claim damages from the co-respondent by petition is given to a husband by s. 33.

**Criminal information**, a proceeding in the Queen’s Bench division by the Attorney-General acting *ex officio*, or by the Master of the Crown Office on the information of an individual. There is no previous indictment or presentment by a grand jury.

**Criminal law**, relates to crimes and their punishment, including crown law, which is quasi-criminal; *e.g.*, indictments for nuisance.

**Criminal letters** (Sc.), one form of criminal process before the High Court of Justiciary, the other being indictment (*q. v.*). They resemble in form a summons in a civil action.

**Cross-claim, Cross-action**, is one made or brought by a
defendant against a person who is claiming relief as plaintiff in an action against him. See Counter-claim.

Crossed cheque, a cheque which has a banker's name written across its face; it can be paid only to that banker by the bank on whom it is drawn. See the "Crossed Cheques Act, 1876."

Cross-examination, the examination of a witness by the side which did not call him; generally after examination in chief.

Cross-remainders. See Remainder.


Crown debts. Every person having money belonging to the Crown is a crown-debtor; such are collectors of taxes, brewers, &c. The Crown claims priority for its debts before all other creditors, and recovers them by a summary process called an extent. See Accountant, Nullum tempus.

Crown lands, the demesne lands of the Crown, which are now usually surrendered by each sovereign on coming to the throne, in return for the Civil list (q. v.)

Crown office, a department formerly belonging to the Court of Queen's Bench, and amalgamated by the Judicature Act, 1879, with the central office of the Supreme Court. Its chief official is the Queen's coroner and attorney.

Crown office in Chancery, now transferred to the High Court. Its chief official, the clerk of the Crown, issues the writ of summons and election for both Houses of Parliament, and performs the duties of the old Hanaper Office (q. v.)

Crown solicitor, the solicitor to the Treasury who acted, prior to 1879, in state prosecutions as solicitor for the Crown in preparing the prosecution. See Public Prosecutor.

Cruelty, such conduct by a husband or wife as entitles the other party to a judicial separation. See Adultery.

Cry de paiz, or Cri de paiz, hue and cry.

Cryer, an officer of a court, whose duty it is to make proclamations.

Cucking-stool, a chair on which females for certain offences, e.g., that of being a "common scold," were fastened and ducked in a pond.

Cui ante divorcium (cui in vita), an old writ for a woman divorced from her husband, to recover her lands from him to whom her husband alienated them during the marriage against her will.

Cui cumque aliquis quid concedit, concedere videtur et id, sine quo res ipsa esse non potuit.—(Whoever grants anything to another is supposed to grant that also without which the thing itself would be of no effect.) See Way of necessity.
Cuilibet in arte sua perito est credendum.—(Everyone who is skilled in his own art is to be believed.) See Expert.

Cuju est commodum ejus debet esse incommodum.—(He who has the advantage should also have the disadvantage.)

Cuju est dare ejus est disponere.—(Whose it is to give, his it is to regulate the manner of the gift.)

Cuju est divisio alterius est electio.—(When one party has the division, the other has the choice.)

Cuju est instituere ejus est abrogare.—(He that legislates may also abrogate.)

Cuju est solum ejus est uique ad caulum et ad inferos.—Cuju est solum ejus est altum. [He who owns the surface soil owns also (primâ facie) up to the sky above it and to the centre of the earth beneath it. Under the former would be included buildings; under the latter, minerals.]

Culpa (Roman law), fault, neglect. Culpa levis, slight or excusable neglect; culpa lata or magna, gross neglect, also called cranca negligentia.

Culpa lata dolo aequiparatur.—(Gross negligence is held equivalent to intentional wrong.)

Culpa pena par esto. Pena ad mensuram delicti statuenda est.—(Let the punishment be proportioned to the crime. Punishment is to be measured by the extent of the offence.)

Cum confitente sponte mitius est agendum.—(One confessing willingly should be dealt with more leniently.)

Cum duo inter se pugnantia reperiuntur in testamento ultimum ratum est.—(Where two things repugnant to each other are found in a will, the last prevails.)

Cum grano salis (with a grain of salt), with allowance for exaggeration.

Cum testamento annexo (with the will annexed). When a testator has neglected to appoint an executor, or if, having done so, no executor is prepared to act, administration cum testamento annexo is granted.

Cumulative, additional, as distinct from substitutional or alternative, e.g., legacies, sentences, remedies.

Curate, one who has the cure of souls, the lowest ecclesiastical degree. He may be (a) temporary, or stipendiary, or (b) perpetual, in which case he resembles a vicar.

Curator, a guardian. He may be (a) of a minor; (b) of a person non compos mentis; (c) of property ad interim, called curator bonis; (d) for the purpose of conducting a suit for a minor, called curator ad item. See Tutor.

Curia advisari vult (the court desires to consider [before
delivering judgment]). Abbreviated in our reports thus, cur. adv. vult., or, c. a. v.

Curia claudenda, an old writ to compel the defendant to erect a wall between his land and the plaintiff's.

Curia curštus aqvs, a court held by the lord of the manor of Gravesend for management of the river traffic.

Curia peniciliarum, a court held by the sheriff of Chester in a place called the Pentice (pent-house).

Cursitores, clerks of the Court of Chancery, who drew up writs that were "of course" (de cursu).

Curtesy of England (Curialitas, Sc.), the estate which a husband has for his life in his wife's fee-simple or fee-tail estates, general or special, after her death. Three things are necessary to this estate, a legal marriage, seisin of the wife, and birth of issue, capable of inheriting, alive and during the mother's life. See Cesarian.

Curtillage, a yard, piece of ground, or garden which adjoins a dwelling-house.

Custode amovendo, an old writ to remove a guardian.


Custodiām lease, a grant from the Crown under the Exchequer seal, by which lands, &c., of the king were demised or committed to some person as custodee or lessee thereof.

Custody, in criminal law, detention. (2) See Infant.

Custom, unwritten law established by long usage. It may be (a) general, which is the common law; or (b) particular or local, which is custom proper; (c) personal, e.g., the custom of merchants, or "law-merchant," as distinguished from "customs of trade," which apply only to one particular trade. Customs must be immemorial, continuous, peaceable, reasonable, certain, i.e., definite, compulsory, i.e., not optional, and consistent.

Custom-house, the office where goods are entered for import or export.

Customary Court, a court which should be kept within the manor for which it is held, for the benefit of the copyholders of the manor (q. v.)

Customary Freehold, is one held by privilege of frank tenure, i.e., by custom and not by the will of the lord, wherein it differs from copyholds. Otherwise it resembles them.

Customs, duties levied on commodities imported or exported.

Custos rotulorum (the keeper of the rolls or records), the principal justice of the peace within the county.

Cy-près, a doctrine of the Courts, whereby if a person expresses a general intention with regard to his property, and also
directs a particular mode of carrying out the same which is contrary to law, they in some cases give effect to his general intention as near as possible; e.g., in the case of charitable legacies.

D.

D. P., Dom. Proc. (Domus Procerum), the House of Lords. Damage, a wrongful act for which the person injured is entitled to compensation. It may be (a) actual or special; (b) consequential.

Damage-feasant, or faisant (doing damage). See Distress. Damages, the compensation for damage (q.v.). Liquidated damages are those which are settled, as to amount, beforehand between the parties, e.g., for breach of a contract. Damages may be nominal, substantial, or aggravated. The measure of damages is the test by which the amount is fixed. Damages ultra, additional damages claimed by a plaintiff not satisfied with those paid into Court by the defendant.

Dame, the legal title of the wife of a knight or baronet. Damnify, to damage, to injure, to cause loss to any person. Damnosa hæreditas (Roman law), a disadvantageous, or unprofitable inheritance.

Damnun absque injuriam (loss or damage caused by an act which is not wrongful.) This is not actionable.

Darraign, to clear a legal account, to answer an accusation. Darrein, last. See Assize, Puis darrein.

Date. See Deed.

Dative or Datif, that which may be disposed of at will. Dativus tutor (Roman law), one appointed by will or by a magistrate.

Datum, data, facts or principles given or allowed.

Day. The law as a rule takes no account of fractions of a day, except in cases of registration, where priority decides rights. Day to shew cause, an infant defendant against whom a decree is made, is generally given a day after attaining majority to show cause against it. Days of Grace, see Grace. Day-rule, or day-writ, permission formerly granted to a prisoner to go out of prison to transact his business.

Daysman, an arbitrator, an elected judge.

De (Concerning). For the various writs beginning with this title see the second word of the title of the writ, e.g., Bonis, Contumace, &c.
De bene esse, to allow a thing to be done provisionally and out of due course, e.g., evidence to be taken.
De bonis non. See Administration.
De die in diem, from day to day, continuously.
De Donis, Statute of. See Donis, Tail.
De facto, de jure, in fact, by right. These are mutually opposed terms.
De la plus belle. See Dower.
De mediate linguae. See Jury.
De minimis non curat lex.—(The law takes no account of trifles.)
De non apparentibus, et de non existentibus, cadem est ratio.—
(As to things not apparent and things non-existent the conclusion is the same.)
De novo, anew, afresh.
De son tort, Executor, one who not being appointed an executor takes upon himself to act in that capacity at his own risk (lit. of his own wrong.)
Dead freight, money paid by a person who has chartered a ship and only partly loaded her, in respect of the part left empty.
Dead man’s part, that part of an intestate’s personality which, prior to 1 Jac. II., c. 17, was not divided between his wife and children.
Death, may be natural or civil. When a person has not been heard of for seven years he is presumed to be dead. There is not in English law any presumption as to which died first of two persons killed by the same accident, e.g. by a shipwreck.
Deathbed declarations, see Dying. (2) Law of deathbed (Scc.). See Liege Pounte.
Debenture, an instrument under seal issued by a company or public body as security for a loan. It is usually for a fixed sum and time, which, being inconvenient to lenders, was the cause of the creation of Debenture Stock, which is frequently irredeemable, and is transferable in any amount. Mortgage debentures, under the Acts of 1865 and 1870, are a means of raising money on securities in the hands of the borrowers.
Debet et detinet, Action in the, was one brought by the original creditor against the original debtor. One by a person representing a creditor, e.g., an executor, was in the detinet only.
Debita sequuntur personam debitoris.—(Debts follow the person of the debtor.)
Debitor non presumitur donare.—(A debtor is not presumed to give.) See Delicatus.
Debitum fundi (Scc.), a real debt, or charge on land.
Debt, a sum certain due from one person (the debtor) to another (the creditor). Debts are (1) of record, (2) specialty, and (3) simple contract; (1) being those proved by the records of a Court, e.g. judgment debts, (2) those under seal, (3) those not under seal. Debts are paid in the following order in the course of administration (q.v.): (a) Crown debts, (b) Judgment debts, (c) Recognisances and statutes, (d) Special and simple contract debts, (e) Voluntary bonds and covenants.

Debtee-Executor, where a person indebted to another makes his creditor or debtee his executor.

Debtor’s summons, a notice to pay under seal of the Court of Bankruptcy, non-compliance with which within the time named is an act of bankruptcy. By the Bankruptcy Act, 1883, a bankruptcy notice under the Act is substituted for a debtor’s summons (s. 4 (g)), and judgment debtors’ summonses are made part of the business in bankruptcy (s. 103). See Bankrupt.

Decedent, a deceased person.

Deceit, Action for, a common law action to recover damages for loss caused by misrepresentation or fraud. See those titles.

Decern, (Sc.), to decree.

Declarant, a person who makes a declaration.

Declaration, a proclamation, (2) An affirmation, (q.v.) permitted by 5 & 6 Wm. IV, c. 62, instead of an oath in certain cases, (3) A statement by a plaintiff of his cause of action. See Statement of Claim.

Declaration of Titles Act, 1862, one under which any one entitled to an estate in fee simple in possession in land may apply by petition in the Chancery Division for a declaration that he has a good title.

Declaration of trust. All declarations or creations of uses or trusts of any lands, tenements, or hereditaments, must be proved by some writing signed by the party who is by law enabled to declare such trust, or by his last will in writing.

Declarator (Sc.), an action whereby it is sought to have some right judicially ascertained and declared.

Declaratory decree, one declaring the rights of the parties without ordering anything to be done.

Declaratory statutes, those which declare the existing law.

Declinatory Plea, a plea of sanctuary or of benefit of clergy. Abolished in 1826. See Plea.

Decree, the order or judgment of a Court pronounced on the hearing of an action. A decree nisi is first pronounced in matrimonial causes, and is made absolute after an interval if the other
party does not in the meantime show good cause to the contrary. Such are decrees for dissolution or nullity of marriage.

Decret (Sc.), decree.
Decret arbitral (Sc.), the award of an arbitrator.
Decretal order, a Chancery order in the nature of a decree, but not made at the hearing.
Decretals, a volume of the canon law, so called as containing the decrees of sundry Popes. (2) A digest of the canons.
Dedicate, to make a private way public, by acts evincing an intention to do so.
Dedi et concessi (I have given and granted), the operative words formerly used in grants, &c.
Dedimus potestatem (we have given the power), a writ or commission empowering the persons to whom it is directed to do a certain act, such as administering the oath to a newly appointed justice, or formerly, appointing an attorney.
Dedition, the act of yielding up anything; surrender.
Deed, an instrument written on paper or parchment duly signed, sealed, and delivered. A deed poll (polled means cut even), is one to which there is only one part, i.e. the party or parties to it is or are in the same interest. As to a deed indented see Indenture. A deed is necessary to almost all dealings with real property. It imports a consideration (q.v.). For the different parts of a deed, see Premises, Recital, Tentandum, Habeendum, Tenendum, Reddendum, Covenant. A deed should bear the date of its execution, but this is not essential if the date can be otherwise proved. See also Composition, Acknowledgment, Delivery.
Deed of covenant. Covenants are frequently entered into by a separate deed, so called, with the object of keeping them off the title of an estate, or where the person entitled to the benefit of the covenant is not also the owner of the estate; e.g. covenants for production of title deeds: or again, where a covenant with a penalty is substituted for a bond.
Deemster. See Dempster.
Defamation, scandalous words spoken concerning another, tending to the injury of his reputation, for which an action on the case for damages would lie.
Default, omission of that which a man ought to do; e.g. of appearance or of pleading (q.v.). See Wilful.
Defeasible, that which may be defeated, determined, or divested.
Defeasance, a condition, especially one contained in a collateral deed or document accompanying another, providing that upon the performance or occurrence of certain matters, an estate
or interest created by such other deed shall be defeated and determined.

**Defectus sanguinis**, failure of issue. (2) See *Challenge.*

Defence, in pleading, is (a) *peremptory,* i.e. a denial by the defendant of the truth or validity of the plaintiff’s complaint; or (b) *dilatory,* i.e. one which raises a technical objection to the further prosecution of the action, but does not go to the merits. See *Statement of Defence, Counter-claim.* (2) See *Self-defence.*

**Defendant** [Deft. abbrev.] **Defender,** (Sc.), the person against whom an action is brought.

**Defendemus,** a word used in old grants and donations, which binds the donor and his heirs to indemnify the donee against any incumbrance other than what is mentioned therein.

**Defender of the Faith,** a title conferred by Pope Leo X. on the Kings of England, as was *Catholic* on the Kings of Spain, and *Most Christian* on those of France.

**Defenration,** the act of lending money on usury.

**Definitive sentence,** the final judgment of a spiritual court, in opposition to provisional or interlocutory judgment.

**Deforcement,** the holding of lands or tenements to which another person has a right; so that this includes as well an abatement, an intrusion, or a disseisin, as any other species of wrong, by which he that has a right to a freehold is kept out of possession: but it is used especially of keeping out of possession one who has never had possession. Hence *Deforcitor,* one who withholds possession wrongfully, and *Deforciant,* the person against whom the fictitious action used to be brought in levying a fine.

**Degradation,** an ecclesiastical censure whereby a clergyman is divested of holy orders. It may be *summary* or *solemn.*

**Degree,** a step, the distance between kindred.

**Del credere,** see *Commission.*

**Delegates, Court of,** the former Court of Appeal from the Ecclesiastical and Admiralty Courts. Abolished 1832.

**Delegation,** (Roman law), the substitution, by means of novation, of a new debtor for the original one, with the latter’s consent. See *Expromissio.* (2) Appointment of a delegate.

**Delegatus non potest delegare.—** (A delegate cannot delegate), i.e. the person to whom an office or a duty is delegated c.g. an attorney, director, or trustee, cannot lawfully devolve the duty upon another, unless he be expressly authorised so to do.

**Deletion** (Sc.), erasure.

**Delicatus debitor est odiosus in lege.—** (A luxurious debtor is odious in the eye of the law.) Cf. *Debitor non prsumitur donare.* and “A man must be just before he is generous.”
Deliverance, Writ of Second. Prior to the Judicature Act, a plaintiff against whom in an action of replevin (q.v.) an adverse judgment was made, might sue out a writ of second deliverance, in execution of which the sheriff must again take the goods from the defendant and deliver them to the plaintiff, the writ operating in the sheriff's hand as a supersedeas of the writ de returno habendo, if the latter had not yet been executed.

Delivery, the act of transferring possession. It may be actual or constructive (q.v.). Delivery order, is one addressed by the owner of goods to a person who holds them on his behalf, instructing him to deliver them to a person named in the order. A writ of delivery, is a writ of execution employed to enforce a judgment for delivery of chattels. See R. S. C. 1883, Ord. xlviii.

Delivery of a deed, by the words "I deliver this as my act and deed," accompanied by signing and sealing by the grantor is a requisite to a good deed. Deeds take precedence according to the time of their delivery, except in the register districts, where their precedence is according to their time of registration. Delivery is (a) absolute, when the deed is perfect, and is intended to take immediate effect; (b) conditional, which is the delivery of the writing to some third person, not a party, to be handed by him to the grantee, when certain specified conditions shall be performed. Until the conditions are performed the instrument is called an escrow, (scrowl, or writing).

Dem. E.g., Doe dem. Smith, i.e., on the demise (q. v.) of S.

Demand, the widest word for a claim, including any liability or right of action. (2) A request for anything due to be done or paid. It is either in deed, written or verbal, as a demand for rent, or an application for payment of a debt; or in law, as an entry on land, distraining for rent, bringing an action. Where a note is payable on demand the Statute of Limitation does not begin to run before demand is made. See Stale.

Demandant, the old term for a plaintiff in a real action (q.v.).

Demese, death.

Demesne, own, private. Demesne land or manor, that which is in the owner's or the lord's own occupation, by himself or his tenants for years. See Ancient demesne, Crown lands.

Demise, a transfer of a right or dignity: e.g. demise of the crown, which usually occurs on the death of the sovereign; hence the word "demise" is sometimes wrongly used for "decease."

(2) Transfer or grant, especially by lease.

Demise and redemise, mutual leases or grants of the same land, or something out of it; e.g. a rent-charge.

Demonstrative, see Legacy.
Dempster or Deemster, the Chief Judge of a Tinwald Court in the Isle of Man.

Demur, to stop, to make demurrer (q.v.). See Parol.

Demurrable, a pleading, &c., which fails to allege such facts as would support the claim made by it.

Demurrage, a term used in commercial navigation, signifying an allowance made to the owners of a ship by the freighter, for detaining her in port longer than the period agreed upon for fitting out, loading, or unloading. (2) The detention itself.

Demurrer, a pleading which admits the facts as stated in the pleading of the opponent, and referring the law arising thereon to the judgment of the Court, waits until the Court decides whether the party demurring is bound to answer. Demurrers used to be general or special (q.v.); but the latter were abolished by the C. L. P. Act, 1852, and general demurrers by the R. S. C., 1883, Ord. XXV. Points of law are now to be raised on the pleadings; and if a pleading in the opinion of the Court raises no reasonable cause of action or answer, it may be struck out.

Denizen, an alien born, who has obtained from the Crown letters patent, called letters of denization, to make him (either permanently, or for a time) an English subject. Since the Naturalization Act, 1870, (q.v.) denization has become rare.

Denman’s (Lord) Act, 6 & 7 Vict. c. 85, makes admissible the evidence of a person previously held to be incapacitated by reason of crime or interest.

Deodand, a personal chattel which had been the immediate occasion of the death of any human being who had reached years of discretion. Previous to 1846 it was forfeited to the Crown, to be applied to charitable uses.

Departure, in pleading, is when a party deserts the ground that he took in his previous pleading, and resorts to another. By the Judicature Act, 1875, Ord. XIX. r. 19, this may only be done by way of amendment.

Depasture, to put cattle out to graze.

Deponent, a person who makes an affidavit. (2) A witness.

Deportation, transportation.

Depose, to make a deposition or statement on oath.

Deposit, money, deeds, &c., lodged by one person with another as a pledge or security, e.g., that he will complete a purchase, or repay a loan. See Equitable mortgage.

Deposition, depriving a person of a dignity, used especially of ecclesiastical censure. (2) See Depose.

Deprivation, taking away a benefice from a clergyman, on account of some offence.
Deputy, one who acts for or instead of another in some office or dignity. See Delegatus.

Deputy Lieutenant, the deputy of a lord lieutenant of a county. Each lord lieutenant has several deputies.

Deseign, to degrade. (2) To prove, make good.

Derelict, abandoned; especially used of a vessel forsaken at sea.

Derelict lands, those suddenly left by the sea, as when the sea shrinks back below the usual water-mark. See Alluvion.

*Derivativa potentas non potest esse major primitiv.*—(The derivative power cannot be greater than the primitive.)

Derivative conveyances, secondary deeds, which presuppose and alter some other. (2) See Settlement.

Derogate, to lessen, impair. A grantor may not derogate from his own grant; i.e., prejudice the right thereby created by any subsequent act of his own.

Derogatory-clause in a will, is one secretly inserted by the testator, with a condition that no will he may make thereafter shall be valid, unless this clause be inserted. Such a clause by English law is invalid, as tending to make the will irrevokeable.

Descent, one of the two chief methods of acquiring an estate in lands. It is the passing of landed property of an intestate to another person by the operation of law, i.e., by his right of representation as heir-at-law of the intestate. See Heir, Per capita, 3 & 4 Wm. IV. c. 106.

Descent cast, the devolving of realty upon the heir of a disseisor, &c., on the death of his ancestor intestate. Prior to 3 & 4 Wm. IV. c. 27, it 'toll'd' or took away the real owner's right of entry.

Desertion, the criminal offence of abandoning (a) the army or navy without licence; (b) wife, or children. (2) Under the matrimonial law, desertion for two years without cause is ground for a decree of judicial separation against either husband or wife. (3) Desertion of the diet (Sc.), see Dict.

Designs, by registering designs (ornamental or for manufacture), the exclusive use of them is secured for a certain time, varying with their nature.

Destination (Sc.), the nomination of a succession of heirs to a property by the owner thereof.

Detainer, unlawful. The wrongful keeping of a person's goods; although the original taking may have been lawful. (2) Writ of, an obsolete form of process for commencing a personal action against one already in prison. (3) Forcible (q.v.).

Determinable, An estate is, when it may determine or come
to an end before the time naturally limited for its expiration, on
the happening of some contingency, e.g., a widow's life estate on
her marrying again.

Detinui. See Debet.

Detinue, a personal action at law arising ex delicto for the
recovery of goods or their value. No longer in use.

Deus solus heredem facere potest, non homo.—(God alone, and
not man, can make an heir, i.e., heirship is matter of birth not
of grant.)

Devastavit (he has wasted), a devastation or waste of the
property of a deceased person by an executor or administrator,
by misapplication of the assets, for which he is liable.

Devestit. See Devest.

Devisa, a gift by will, properly applicable to realty; but it is
also used sometimes of personality. See Legacy.

Deviation, by a ship, is departure from her proper course.
This invalidates her insurance policies. (2) By a railway, is an
alteration of its direction; this is only allowed within certain
fixed limits.

Devissavit vel non, an issue formerly sent from the Court
of Chancery to be tried in a Court of Law, whether lands alleged
to pass by a certain will did so pass or not.

Dictum, or Obiter dictum, is the expression by a judge of
an opinion on a point of law arising during the hearing of a
case, which however is not necessary for the decision of that
case. A dictum is not therefore binding on other judges.

Diem clausit extremum (he has died), a writ of extent,
directing the sheriff, on the death of a Crown debtor, to enquire
by a jury when and where the Crown debtor died, and what
chattels, debts, and lands he had at the time of his decease, and
to seize them into the Crown's hands. See Extent.

Dies fasti, nefasti, et intercisi (business days, holidays,
and half-holidays. [Rom. law.])

Dies inceptus pro completo habetur.—(A day begun is held as
complete.)

Dies non (Scil. juridicus), one on which no legal business
can be transacted: e.g., Sunday, Christmas-day.

Diet (Sc. day), Desertion of the Diet, the abandonment of judi-
cicial proceedings on a particular indictment or libel. Diets of
compeance, days on which a party is cited to appear.

Digamy, second marriage after death of the first wife.

Digest, a compilation or distribution of a subject into
various classes or departments; particularly the Pandects of
Justinian.
Dignity, the right to bear a title denoting rank or office. If inheritable it is a species of incorporeal hereditament.

Dilapidation, the ecclesiastical term for waste as applied to buildings of the benefice. See Waste.

Dilatory pleas, a class of defence at common law, now obsolete, founded on some matter of fact not connected with the merits of the case; viz., pleas to the jurisdiction; in suspension, i.e., for some temporary incapacity; and in abatement, i.e., showing some cause for quashing the declaration.

Diligence, care. See Negligence, Culp, Bailment. (2) In Scotch law (a) a warrant to enforce attendance of witnesses or production of writings; (b) a writ of execution.

Diminution, of the record, incompleteness.

Diocese, a district subject to a bishop's authority; it is divided into archdeaconries, and has diocesan courts, otherwise called consistorial.

Diploma, a royal charter or letters patent.

Direct evidence, is opposed to circumstantial evidence.

Direction, the exposition of the rule of law given to a jury by the judge in a case where their verdict depends partly on the law. Erroneous or mis-direction is ground for a new trial.

Director, one appointed to manage or superintend the affairs of a company.

Director of Public Prosecutions, see Public Prosecutor.

Directory statute, is opposed (1) to declaratory (i.e., a statute which merely declares what the law is), and (2) to imperative. When a statute directs that an act should be done in a specific manner, or authorizes it upon certain conditions, if a strict compliance with its provisions is not essential to the validity of the act, it is said to be directory, although the performance may be enforced by mandamus; but if such compliance is essential, it is said to be imperative.

Diriment impediments, absolute bars to marriage, which would make it null ab initio.

Disability, incapacity to do any legal act, e.g., to sue or contract. It may be (a) absolute or perpetual, as in the case of felons; or (b) partial or personal, as in the case of infants. See Absence beyond seas.

Disabling statutes, those which restrict the exercise of a right.

Disafforest, to throw open; to reduce from the privileges of a forest to the state of common ground.

Disagreement, the refusal by a grantee or donee to accept an estate or gift; whereby the grant, &c., is annulled.
Disailt, to disable a person.

Disappropriation. See Appropriation.

Disbarring, expelling a barrister from the bar for misconduct; a power vested in the benchers of each of the four Inns of Court, subject to an appeal to the judges.

Discharge, to release, to relieve of an obligation, to deprive of binding force. (2) A bankrupt (q.v.) under the Act of 1869 was discharged when he had either paid 10s. in the pound, or otherwise satisfied his creditors. Under the Act of 1883, he is not given his discharge except at the discretion of the Court, and it will be refused, or granted only for a time, or subject to conditions, if he has committed any misdemeanor under the Act, or under the Debtor's Act, 1869, or done any of the acts specified in s. 28, showing reckless trading, or fraud, or been previously bankrupt. On payment of his debts in full the bankruptcy will be annulled (s. 35). After his discharge, any property he may acquire remains his, instead of belonging to his trustee. (3) A rule nisi is discharged when the Court decides that it shall not be made absolute (q.v.).

Discharge of a jury, takes place (1) either by the act of God, as the death of one of the jury; or (2) in due course on the termination of the trial by verdict (or sentence); or (3) by the judge determining that they are so divided as to be unable ever to agree, or that there is other sufficient cause.

Disclaimer, a formal renunciation, e.g., by a trustee, of the trust (which is usually evidenced by a deed); or by a patentee, of part of his patent. (2) A refusal to accept; e.g., an office, by an executor who declines to prove a will; or by a trustee in bankruptcy, in the case of onerous property of the bankrupt. (3) A denial by a tenant of his landlord's title. (4) In equity, prior to the Judicature Act, it was a renunciation by defendants of all claim to the thing demanded by the plaintiff.

Discontinuance, an interruption or breaking, scil. of the right of entry. This formerly happened where a person aliened a larger estate than he had, so that on his death the next owner had to bring an action. (2) Of an action, is governed by Order XXVI. of R. S. C., 1883. The plaintiff may afterwards bring another action for the same cause.

Discovert, a widow; a woman unmarried.

Discovery. It is the right, as a general rule, of a party to an action, to exact from any other party thereto discovery, or information, upon oath as to (a) matters of fact (see Interrogatories), and (b) documents in defendant's past or present possession or power. See Production, Inspection. The right
of a plaintiff to this benefit as against a defendant is limited to a discovery of such material facts as relate to the "plaintiff's case," and does not extend to a discovery of the manner in which the "defendant's case" is to be exclusively established or to evidence which relates exclusively to his case.

Discredit, to throw doubt on a witness's evidence by assail- ing his character, or otherwise. A party may not, as a rule, discredit his own witness.

Discretion, the use of private and independent judgment. Costs are in the discretion of the judge of first instance, and his decision is therefore not interfered with by the Court of Appeal.

Discussion (Sc.), the sureties' right to defer paying the debt for which they became bound until the creditor has discussed (i.e., brought process of execution against) the principal debtor, and he has failed to pay.

Disentailing deed, an enrolled assurance barring an entail, i.e., converting it into an estate in fee. See Protector, Base fee; 3 & 4 Wm. IV. c. 74.

Disfranchisement, the act of depriving of a franchise (q. v.).
Disgavel, to exempt from the rules of gavelkind (q. v.).
Disherison, the act of debarring from inheritance.
Disheiror, one who puts another out of his inheritance.
Dishonour, to refuse to accept or pay a bill of exchange, or draft, or to pay a promissory note when duly presented. See Acceptance, Bill of Exchange.

Disme, a tenth or tithe.

Dismissal of Action. This may take place upon default in delivery of statement of claim, non-appearance at trial, disobe- dience to a judge's order for discovery, &c.

Disparagement, matching an heir in marriage beneath his degree or against decency.

Dispauper, to prevent a person suing any longer in formă pauperis (q. v.), which happens if it appear during the action that he has property.

Dispensation, an exemption from some law. (2) A license. (Ecclesiastical term.)

Disponer (Sc.), a grantor; dispone, to grant.
Disseisin, a wrongful putting out of him that is seised of the freehold; as distinct from abatement or intrusion.
Disseisee, a person turned out of possession, or disseised.

Dissolution, a legal severance or breaking up. This may take place in cases of (1) partnership, by death of a partner, by agreement, or by order of a Court, (2) companies, by winding-
up, or cessation of working, (3) marriage, by decree of divorce, 
(5) parliament, by lapse of seven years, or by will of the 
sovereign.

Distain, to make seizure of goods or chattels by way of 
distress or distraint.

Distress, a taking without legal process of a personal chattel 
from the possession of a wrong-doer, to enforce payment, e. g., 
of rent, performance of a duty, or satisfaction for an injury 
The right to distress arises (a) by common law, e.g., where 
beasts of a stranger are found damage feasant; (b) by statute; 
or (c) by power reserved in an agreement. It cannot be exer-
cised at night, and must be made, in the case of rent, upon the 
land whence the rent issues, and for the whole at one time. See 
Replevin. The Agricultural Holdings Act, 1883, s. 44, limits a 
landlord's right of distress, in cases falling under the Act, to one 
year's rent. See also the Bankruptcy Act, 1883, s. 42. (2) The 
thing distrained or taken. Some goods and animals are exempt, 
e.g., those necessary for carrying on the debtor's trade.

Distress infinite, one that has no bounds with regard to its 
quantity, and may be repeated from time to time, until the stub-
bornness of the party is conquered. Such are distresses for fealty 
or suit of Court, and for compelling jurors to attend.

Distributions, Statute of, 22 & 23 Car. II. c. 10, as ex-
plained by 29 Car. II. c. 3, provides for the distribution of the 
effects of a deceased intestate amongst his next-of-kin in certain 
proportions, after his debts and funeral and testamentary ex-
penses have been paid. All special local customs of distribution 
were abolished in 1856. The rules now in force are these:—If 
the intestate leave a widow and any child or children or descen-
dant of any child (as to which see Representation), the widow 
takes a third and the issue the rest, per stirpes, subject to the 
rule of hotchpot (q. v.). If he leaves no widow the issue take 
the whole. If he leaves a widow and no children, the widow 
takes half, and the other half (or if there is no widow, the whole) 
goes as follows: to his father, if living; if none, then to his mother, 
brothers and sisters in equal shares; if none, then to his next-
of-kin of the same degree. See Kin. The husband of a female 
intestate takes all her personal property.

Distributive finding of the issue, is where part is found 
for the plaintiff, part for the defendant.

District Registries, were created under s. 60 of the Judicature 
Act, 1873, to facilitate proceedings in county districts. A judge 
may remove proceedings from a district registry into the High 
Court, or direct accounts and inquiries to be made in the former.
**Distringas (that you distrain),** a writ addressed to the sheriff, directing him to distrain on a person therein named, in order to compel the performance of a duty or the delivery of a chattel. See *Fieri.* (2) An order forbidding the transfer of stock on a company’s books or the payment of dividends, without notice to the person who has put on the distringas.

**Disturbance,** the infringement of an incorporeal right, easement, &c. (2) Of tenure, is wrongfully to cause a person to quit his tenancy.

**Dittay,** the matter of charge against a person accused.

**Diversity,** a plea by the prisoner in bar of execution, alleging that his identity is mistaken.

**Dives Costs,** the ordinary costs as distinguished from those paid by a person suing *in formâ pauperis* (q. v.).

**Divest or Devest,** to take away from a person an estate or interest which has already vested.

**Dividenda,** an indenture; one part of an indenture.

**Divisa,** an award, or decree. (2) A devise. (3) Boundaries of a parish, farm, &c. (4) A boundary court.

**Divisions,** of the High Court of Justice, are now three, viz., Chancery, Probate Divorce and Admiralty, and Queen’s Bench; the Common Pleas and Exchequer Divisions having in 1881 been consolidated with the latter.

**Divisional Courts,** are Courts consisting of two or more judges of the High Court, which transact certain business which cannot be disposed of by a single judge, e.g., appeals from County Courts.

**Divorce,** a judicial severance of the tie of matrimony. It may be (a) by a decree of dissolution or nullity of marriage (*a vinculo matrimonii*), which is complete; or (b) by a decree of judicial separation (*a mensâ et thoro*), which being only partial does not enable the parties to marry again. See *Adultery, Judicial Separation.*

**Dolus auctoris non nocet successori.—** (The fraud of a predecessor prejudices not his successor.)

**Divorce and Matrimonial Causes, Court for,** was established by 20 & 21 Vict. c. 85, and to it was transferred the jurisdiction of the Ecclesiastical Courts in these matters, the granting of marriage licenses excepted.

**Dock,** the place in court where a prisoner is put during his trial.

**Dock Warrant,** a document issued by a dock owner stating that the goods mentioned in it are deliverable to a person therein named, or to his assigns by indorsement.
Docket, an epitome of a judgment, &c., for purposes of registration or enrolment. Under the early law in bankruptcy, when the proceedings to make a man bankrupt were ex parte, the petitioning creditor was said to "strike the docket."

Doctor's Commons, the buildings in which the Ecclesiastical and Admiralty Courts were held, near St. Paul's Cathedral.

Document, any substance, paper, wood, &c., on which signs have been expressed.

Documents of Title, are those which show a right of ownership.

Doe, John, otherwise called Goodtitle or Right, the plaintiff (fictitious lessee of the real plaintiff) in the action of ejectment, which was abolished by the Common Law Procedure Act, 1852.

Dole, a share allotted, e.g., of common land, which is also called docel, or lot, meadow. See Open.

Dolus versatur in generalibus.—(He who wishes to deceive uses general or ambiguous terms.)

Dolus dans locum contractui.—(Fraud in the place of the contract, i.e., fraudulent misrepresentation by which one induces another to enter into a contract; this is ground for avoiding the contract.) See Misrepresentation.

Dome-book, a collection of local customs compiled by the order of King Alfred.

Domesday or Doomsday-book, a survey of the greater part of England made in the time of William the Conqueror.

Domicile, the place where a person has his legal home, or place of permanent residence. It depends (a) on the fact of residing, (b) on the intention of remaining. Domicile is (1) by birth, (2) by choice, (3) by operation of law, or necessary, e.g., of an infant, which alters with that of its parent. A man's civil status, e.g., his capacity to contract marriage, depends on the law of his domicile, i.e., the country where he is domiciled.

Dominant tenement, a term relating to servitudes, meaning the tenement or holding in favour of which the service is constituted. See Easement.

Dominium directum, in the feudal law, the ownership left in the superior lord, as distinguished from dominium utile, the beneficial right granted to the vassal. See Feud.

Dominus litis, the controller of a suit or litigation. (2) An advocate who, after the death of his client, prosecuted a suit to sentence for the executor's benefit.

Domo reparanda, a writ that lay for one against his neighbour, by the anticipated fall of whose house he feared a damage.

Dom. Proc., Domus Procerum, the House of Lords.
Domus sua cuique est tutissimum refugium—(To everyone his own house is the safest refuge); cf. "Every man’s house is his castle."

Dona clandestina sunt semper suspiciosa.—(Clandestine gifts are always suspicious.)

Donatio mortis causa, a gift of personal property in prospect of death, which can be recalled at any time during the donor’s life, but is consummated by his dying of the illness then existing. It must be accompanied by delivery. It is subject to legacy duty, and to the debts of the donor.

Donatio non præsumitur.—(A gift is not presumed.)

Donatio perfcitur possessione accipientis.—(A gift is perfected by possession of the receiver.) See Disagreement.

Donationes sunt stricti juris, ne quis plus donasse præsumatur quam in donatione expressit.—(Gifts are to be strictly examined, lest a man be taken to have given more than is expressed in the grant.) But see Verba chartarum, &c.

Donative advowson, is one bestowed on a private individual by the Crown, and exempted from the visitation of the bishop or ordinary; the parson being put into possession by deed of donation without presentation, institution, or induction. It is not subject to lapse, as the freehold and the right of presentation always devolve on the patron and his real representatives.

Donatory (Sc.), one on whom the sovereign confers the right to any forfeiture that has fallen, or may fall, to the Crown.

Donee, one to whom a gift is made; Donor, the giver.

Donis conditionalibus, Statute De, 13 Edward I. c. 1, otherwise called Statute of Westminster the 2nd, restrained the barring or alienation of estates tail by the tenant in tail, until its effect was evaded by the system of common recoveries (q. v.). Previous to this statute estates tail were called conditional estates, as their duration was, in intention, conditional on the existence of issue of the body of the first tenant or donee. See Tail.

Dormant claim, a claim in abeyance, not enforced.

Dormant partners, those who do not appear or take any active part as partners, but who nevertheless share in the profits and losses of the business, and thereby incur the responsibility of partners.

Dormiunt aliquando leges, nunquam moriuntur.—(The laws sometimes sleep, never die.)

Dotal, relating to the portion or dowry of a woman.

Dotation, the act of giving a dowry or portion. (2) Endowment in general.

Double or treble Damages are given, in some cases, by
particular statutes, e.g., for wrongful sale of a distress; but at common law the damages are always single. Double or treble costs are no longer given.

Double Entry, a term used by merchants of books of account so kept that they show the debt and credit of every transaction.

Double insurance, Where a person effects, on the same goods, he may recover against either underwriter, but the underwriter who pays him is entitled to contribution from the other.

Double pleading. See Duplicity.

Double Rent, Double value, penalties on tenants holding over after notice to quit. See 11 Geo. II. c. 19, and 4 Geo. II. c. 28.

Double waste. When a tenant, bound to repair, suffers a house to be wasted, and then unlawfully fells timber to repair it, he is said to commit double waste.

Dowable, entitled to dower.

Dowager, a widow endowed (used of persons of rank).

Dower, the right which a widow has in the third part of the lands and tenements of which her husband died possessed in fee-simple or tail (but not as joint tenant), whether his estate be legal or equitable. This she holds from and after his decease, in severalty for her life, whether she have issue by her husband or not. A widow cannot claim dower as well as jointure (q. v.). Dower may be (1) by common law as altered by 3 & 4 Wm. IV. c. 105; (2) by custom (see Free-bench); and formerly (3) ad ostium ecclesiae, which was fixed by the husband at the time of marriage; (4) ex assensu patris, where the husband's father being alive assented to the assignment of dower; (5) de la plus belle, scil. of the best land. See Free-bench, Writ of Dower.

Dowl and deal, a division; hence dowl stones.

Dowress, a widow entitled to dower.

Dowry (Tocher, So.), otherwise called dos or maritagium, the portion which the wife brings the husband in marriage.

Draft, an order in writing to pay money, addressed by one person to another, on whom it is said to be drawn. (2) A preliminary or rough copy of a legal document. Hence Draftsman, one who draws up a document, especially for legal purposes, e.g., a conveyance or pleadings.

Drawer, the person who draws a bill of exchange on the drawee for his acceptance. See Bill.

Drift-land, Droffland, or Dryfland, a yearly rent paid by some tenants for driving cattle through the manor.

Droit d’aubaine, the right of the French crown to an alien's property at his death. Now extinct.

Drunkenness, at the time of entering into a contract, i,
ground for avoiding it, if the party was to the knowledge of the
other incapable in consequence of understanding its terms. By
42 & 43 Vict. c. 19, justices may license retreats for Habitant
Drunkards who voluntarily apply for admission.

Dry-rent, a rent reserved without clause of distress. See
Rent-seck.

Duces tecum, Subpoena. If a person, even if he be a party
to a cause, have in his possession any document, &c., which it is
desired to put in evidence at the trial, instead of the common
subpoena, he is served with a subpoena duces tecum, commanding
him to bring it with him and produce it at the trial.

Duchy of Cornwall,—Lancaster. See Cornwall, Chancery.

Dumb-barge, one without ears or sails.

Dum, or Quamdiu, bene se gesserit (while he shall
conduct himself well). Appointments are often thus conditioned.
See Durante.

Dumb bidding, in sales at auctions, a reserve price secretly
fixed.

Dum fuit infra ætatem, an old writ to recover land aliened
during the plaintiff's infancy.

Dum sola, whilst single or unmarried.

Dunnage, wood or other material placed in the hold of a ship
under or between the cargo.

Duo non possunt in solido unam rem possidere.—(Two cannot
possess the whole of one thing in its entirety.)

Duplex querela (a double plaint), a process ecclesiastical,
which is in the nature of an appeal from the refusal of an ordi-
nary to institute, brought by the clerk in holy orders who desires
to be instituted. He is called the promovent. See 2 P. D, 192.

Duplicate, second letters patent granted when the first were
void. (2) A copy. (3) A pawnbroker's ticket.

Duplicate Will, where a testator executes two copies of his
will, one to keep himself, and the other to be deposited with
another person. Upon application for probate of a duplicate
will, both copies must be deposited in the registry.

Duplicatio (Roman law), answers to our Rejoinder.

Duplicity, or Double Pleading, is one which contains
more charges, allegations, or defences than one. This was for-
merly called a multifarious plea and was not allowed; but the
rule is now much relaxed, except so far as such pleading may
tend to embarras.

Durante, during. Durante bene placito, during the pleasure
of the Crown, as opposed to dum or quamdiu bene se gesserit
(q. v.); durante absentiâ, durante minore ætate, during absence
or infancy. See Administration.
Duress, imprisonment, compulsion, sometimes called *duress proper*. (2) Threats of injury or imprisonment (*duress per minas*). A contract made under duress is voidable at the option of the person forced into it.

Durham. See Counties Palatine.

Dutch auction, the setting up of property for sale by auction above its value, and gradually lowering the price till some person takes it.

Duty, an obligation; the correlative to a right. (2) A tax. *Dutiable*, liable to pay duty. See Excise, Customs.

Dying or Deathbed declarations, are admitted as evidence, contrary to rule, after the death of the declarant, e.g., when made by a murdered person as to the murderer.

Dyvour, obsolete Scotch term for a bankrupt.

**E.**

Earl Marshal of England, a high officer of state who formerly had under his jurisdiction the Courts of Chivalry, Honour, &c. Under him is the Heralds’ office.

Earmark, a mark for identification. Money has no earmark as a rule, though the term may be applied to a private mark made by any one on a coin; but if it be kept separate, e.g., in a bag, so that it can be distinguished from other money in his possession, it is said to be ear-marked.

Earnest, the sum paid by the buyer of goods in order to bind the seller to the terms of the agreement. Any sum is sufficient.

Ear-witness, one who attests anything as heard by himself.

Easement, an incorporeal hereditament relating to user, and not to the taking of profit, and “lying in,” i.e., created by, grant express or implied. A privilege which the owner of one neighbouring tenement, called the *dominant* tenement, has as against another person, the owner of what is called the *servient* tenement, whereby the latter is obliged to suffer or not to do something on his own land for the advantage of the owner of the other. The principal easements are rights of (1) light, (2) air, (3) way, (4) water, and (5) support. See those titles. (1), (2), and (5) are instances of *negative* easements; i.e., where the *servient* tenant is restrained from exercising an ordinary right of property to the prejudice of the *dominant* owner. (3) and (4) are *affirmative* easements. A continuous easement is one which continues to be enjoyed without any act on the part of the
person entitled to it, e.g., the access of light; whereas a right of way is discontinuous. An apparent easement is one which is evident from inspection of the tenement; e.g., a right of way.

Eat inde sine die, words used on the acquittal of a defendant, that he may go thence without a day, i.e., be dismissed without any further continuance or adjournment.

Ecclesiastical, connected with, or set apart for, the church, as distinguished from lay or civil. Eccles. Corporations are sole, e.g., a bishop, or aggregate, e.g., a chapter. Eccles. Commissioners were appointed under 6 & 7 Wm. IV. c. 77, to regulate and improve the management of matters connected with the established Church, such as providing for the cure of souls. Eccles. Courts are the Archdeacons', the Consistory, the Arches, the Prerogative or Archbishops', the Faculty, the Court of Peculiars, and the Privy Council. See those titles.

Ecumenical, general, universal; e.g., an Ecumenical Council.

Edictal citation (Sc.), substituted service.

Edictum Theodorici, the first collection of law made after the downfall of the Roman power in Italy. It was promulgated by Theodoric, king of the Ostrogoths, at Rome in A.D. 500.

Effeir (Sc.), to correspond with, relate to.

Ex incumbit probatio, qui dicit, non qui negat: cum per rerum naturam factum negantis probatio nulla sit.—(The proof lies upon him who affirms, not upon him who denies: since, by the nature of things, he who denies a fact cannot produce any proof.)

Eigné. See Bastard.

Eik (Sc.), an addition. Eik to a reversion, an additional loan to a wadsetter (or mortgagor), who is the reversioner of the mortgaged estate; (2) to a testament, an addition to an executor’s inventory.

Eire. See Eyre.

Ejectione custodice, a writ that lay against him who ejected a guardian during the minority of the heir.

Ejectione firma, a writ which lay to eject a tenant.

Ejection, was the only mixed action at common law, and depended on fictions invented in order to escape from the inconveniences which were found to attend the ancient forms of real actions. It was a “mixed” action as seeking to recover both possession of land (a real claim), and also damages (a personal claim). In this action the plaintiff was called John Doe; the defendant or casual ejector (i.e., some person, other than the prior tenant, who usually acted by arrangement), Richard Roe.
Doe declared that he was in possession under a demise from a third person who claimed to be entitled to the land (who was the real plaintiff). This action was abolished by the C. L. P. Act, 1862. By the Jud. Act it is now called an action for the Recovery of land.

**Ejuration**, renouncing or resigning one's place.

_Ejus est periculum eujus est dominium aut commodum._—(He who has the dominion or advantage has the risk.)

_Ejus nulla culpa est cui parere necessit sit._—(He is not in any fault who is bound to obey.)

_Ejusdem generis* (of the same kind or nature).*

_Elder Brethren,* the Masters of the Trinity House.

_Electio semel facta non patitur regressum._—(Election once made cannot be recalled—if made deliberately, and with full knowledge of the circumstances. See Quod semel, &c.)

**Election**, the act of choosing between two alternative or inconsistent rights, in cases where there is a clear intention on the part of the donor of one that the donee should not take both; the condition is therefore implied that the donee shall carry out the donor's intention if he chooses to accept his gift. See _Electio._ (2) Choice of a representative, officer, &c.

**Election Judges**. Judges of the High Court selected for the trial of election petitions; _i.e._, petitions for inquiry into the validity of the election of a member of Parliament. See 46 & 47 Vict. c. 51, ss. 40—44.

_Elects,* officers of the College of Physicians.

_Eleemosyna,* alms, possessions belonging to the church.

_Eleemosynary Corporations,* corporate bodies, constituted for the perpetual distribution of the free alms or bounty of the founder of them. Such are hospitals, colleges in the Universities, &c. They are however _lay_ corporations.

_Elegit* (he has chosen, so called because the creditor could choose between this writ and a writ of _fieri facias_*), a judicial writ of execution founded on the statute of Westminster II. (13 Edw. I. c. 18) issuing out of the court where the record or other proceeding is upon which it is grounded, and addressed to the sheriff, who, by virtue of it, gives to the judgment-creditor legal, though not actual, possession of the lands and tenements of the judgment-debtor, to be held by him until the money due on such judgment is fully paid. If necessary the creditor must acquire actual possession by action for recovery of land; when he has got possession he is called tenant by _elegit,* and his interest is denominated an estate of freehold, defeasible upon a condition subsequent. His interest, however, is really a chattel, and passes to
his executor. Prior to the Bankruptcy Act, 1883, s. 146, the sheriff could seize goods of the debtor and deliver them to the creditor; and as they were not sold, it was not an act of bankruptcy to suffer execution of this writ. [See 32 & 33 Vict. c. 71, s. 6 (5).] Under the Act of 1883, however, the writ of elegit no longer extends to goods.

Elisors. Where the sheriff and coroners are challenged for partiality, two independent persons or elisors may be appointed to choose a jury, and their return is final.

Eloign, to remove.

Elongata, a return made by a sheriff in replevin, that cattle, acc., are not to be found, or are removed.

Elongatus, a return to a writ de homine replegiando, that the man was out of the sheriff's jurisdiction, whereupon a process was issued, called a capias in withernum, to imprison the defendant himself without bail until he produced him.

Elivers, the fry of eels.

Emancipatio (Roman law), a solemn act by which a paterfamilias divested himself of his power over his filius-familias, so that the filius-familias might become sui juris.

Embargo, a stoppage or detention. (2) A prohibition imposed by a belligerent state upon ships or property of the enemy wishing to leave the territory of the former. See Reprisals.

Embezzlement, the appropriation to his own use by a servant or clerk of money or chattels received by him for and on account of his employer. It differs from larceny in this, that property embezzled is not at the time in the actual or legal possession of the owner.

Embelments, growing crops. The right to embelments is the right which an outgoing tenant (or the representatives of a deceased one) has in certain cases to enter on the land (see Ingress) and cut and take away the crop when mature, after the expiration of his tenancy. It does not apply to crops which do not represent labour expended by the tenant; e.g., orchard fruit. By 14 & 15 Vict. c. 25, s. 1, it is provided that instead of a claim to embelments a tenant shall, in the case of the determination of his tenancy by the death of his landlord, hold on until the expiration of the then current year of his tenancy.

Embraceor, Embracery, an attempt to influence a jury corruptly in favour of one party in a trial. See Maintenance.

Emendals, an old word still made use of in the accounts of the society of the Inner Temple; where so much in emendals on the balance of an account signifies so much money to the credit of the society.
Emergent year, the epoch or date whence any people begin to compute their time.

Eminent domain, the right which a government retains over the estates of individuals to resume them for public use.

Empannel. See Impanel, Panel.

Emparl. See Imparl.

Emphyteusis (Roman law). The *jus emphyteuticarium*, or, as it is more generally called *emphyteusis*, was the right of enjoying all the fruits, and disposing at pleasure of the property of another, subject to the payment of a yearly rent (*pensio* or *canon*), analogous to the modern ‘ground rent,’ to the owner. The payer of the rent was called *emphyteuta*.

Empiric, a practitioner who proceeds on experience only, without scientific knowledge; one not properly qualified, a quack.

Employers' Liability Act, 43 & 44 Vict. c. 42, extends the liability of employers to compensate workmen for injuries received in their service. See Master.

Emption, the act of buying; Emptor, a purchaser.

Enabling Statute, one which removes a restriction or disability.

Enach, the satisfaction for a crime or offence.

Enact, to establish by law; to decree.

Enchesone (Sc.), occasion, reason.

Enclosure. See Inclosure.

Encroachment, an unlawful extension of a right to the prejudice of another's property; e.g., by taking in adjoining land.

Encumbrance. See Incumbrance.

Endorsement. See Indorsement.

Endowed Schools Commissioners, by 37 & 38 Vict. c. 87, their powers and duties were transferred to the Charity Commissioners. See Charitable.

Enfeoffment, the act of investing with any estate or possession. See Feoffment.

Enfranchise, to make free, or incorporate a person into a privileged society. (2) To invest with the elective franchise. (3) To turn copyhold into freehold land, which is done by the lord (a) conveying the fee to the copyholder; (b) releasing him from his services (*q. v.*).

English Bill, Suits by, the old name for suits on the Chancery side of the Court. English information, a proceeding in the Court of Exchequer in revenue matters.

Engross, to copy in a clerkly hand, to prepare a deed for execution. (2) To regrate, or buy large quantities of a com-
modity with the object of selling it again in the same place at a higher price; also called forestalling the market. This was a criminal offence, until 7 & 8 Vict. c. 24.

Enitrety. See Entury.

Enlarged. To enlarge a rule is to extend the time within which it is returnable.

Enlarger or Entropy, a species of release which consists of a conveyance of the interior interest of a remainderman or reversioner to the particular tenant.

Enquiry. See Inquiry.

Enrol, to record by registering a copy: e.g., in the case of a disentailing deed, and a bargain and sale. The Enrolment Office is now part of the Central Office. Prior to the Jud. Act, decrees in Equity which were enrolled could only be altered by Appeal to the House of Lords or by bill of review.

Entail, land, or money directed to be invested in realty, which is settled on a man and the heirs of his body. See Tail.

Enter, to enrol, to inscribe upon the records. (2) See Entry.

Entire contract, a contract wherein everything to be done on the one side must be performed before the consideration is due from the other. This is opposed to an apportionable or severable contract. See Apportionment, Freight.

Entireties, Tenancy by. Where an estate is conveyed or deviser to a man and his wife during coverture, they are said to be tenants by entireties, per tout et non per my, that is, each is seised of the whole estate, and neither can alienate alone; so that in default of joint alienation the estate goes to the survivor.

Entry, enrolment, inscription. See Enter. (2) The going on land with the object of asserting or acquiring a right therein. This is called actual entry, which is necessary in certain cases; e.g., to constitute a seisin in deed, and to perfect a common-law lease for years. Entry in law may be made constructively. Since the introduction of modern conveyances, which do not require livery of seisin (g. v.), entry is seldom made except to re-take possession, in which case it must be peaceable. See Limitation, Bill, Writ of Entry.

Enumerators, persons appointed to take the census.

Enure, to take effect or be available.

Episcopalian, in Scotland, a dissentient from the established Presbyterian Church, and an adherent of the Reformed Catholic, or English Church.

Equality. Money paid on a partition or exchange to equalise the shares is said to be paid for equality or onetly.

Equitable, that which exists, or can be reached, only by
viii of, or through, a Court of Equity (q.v.). Thus an equitable or beneficial, is opposed to a legal, estate. See Trustee, Assets. An equitable mortgage, is (a) where the property mortgaged is an equitable interest only; e.g., that of a cestui que trust, or owner of an equity of redemption: (b) where though the mortgagor has the legal estate he does not convey it, but effects the security by giving a written agreement to convey it, or by depositing his title deeds with the mortgagee, either with or without a written agreement or memorandum of deposit. In such case the deposit is deemed evidence of an executed agreement for a legal mortgage. See Lien, Waste.

Equity, fairness. See Aequitas, He who, &c. As the Courts of Equity had in early times, a power of framing and adopting new remedies to particular cases, which the Common Law Courts did not possess, and in doing so allowed themselves a certain latitude of construction, and assumed in certain matters, such as trusts, a power of enforcing moral obligations which the Courts of Law did not admit or recognise, there grew up by degrees a characteristic distinction between the rules of Equity and Common Law, which has only been lately abolished by the Jud. Acts, 1873, and 1875, whereby those rules have in certain points been assimilated, and it has been enacted that in all others where there is a conflict the rules of Equity shall prevail. Equity, however, did not assume the right to control or supersede the Common Law, as is shown by the maxims, Equity follows the law, and Where the equities are equal the law must prevail. See the succeeding titles, Chancery. (2) The right or obligation attaching to a property or contract. In this sense a person is said to have a better equity than another. Collateral Equities, in the law of bills of exchange, are those (such as set-off) which arise without special agreement between the parties.

Equity of Redemption. A mortgagee, although he has in the eye of the law become absolute owner of the mortgaged property, after breach of the condition for repayment of the loan within the strict time, yet is compelled to reconvey the legal estate to the mortgagor, if the latter applies to redeem the mortgage before foreclosure or sale, and within twenty years of the last written acknowledgment of his right. This right to redeem or buy back the mortgaged estate on payment of principal, interest, and costs, is called the mortgagor's equity of redemption.

Equity of a Statute. A case is said to be within the equity of a statute when it falls within its spirit and intent, though apparently excluded by the letter.

Equity to a Settlement, is the claim of a wife to have
some portion, usually one-half, of property coming to her husband in her right during the coverture settled on herself. This claim is enforced by a Court of Equity, whenever the husband has to invoke its assistance for the purpose of getting possession of the property. But by the Married Women's Property Act, 1882, s. 2, every woman married after that Act shall have as her separate property all real and personal estate which shall be acquired by or devolve upon her after marriage.

Errasure or Erasure, rubbing out or obliteration: if a material erasure be made, it invalidates the instrument. In a deed an erasure or interlineation is presumed to have been made on or before its execution; in a will, after.

Errant, a term applied to justices on circuit. See Eyre.

Error. To bring error, under the practice prior to the Jud. Act, which has substituted the appeal system, was to allege some mistake in the conduct of an action or in the judgment delivered. An appeal can still in criminal cases be brought by way of writ of error (q. v.).

Errors excepted, a phrase appended to an account stated, in order to excuse slight mistakes or oversights.

Escape, by a prisoner is a misdemeanour; assisting one to escape is a felony. Voluntary escape is where the officer who has the custody of the prisoner allows him to escape.

Escape-warrant, a process addressed to all sheriffs, &c., throughout England, to retake an escaped prisoner.

Escheat, a species of reversion of any estate of inheritance which is the subject of tenure, the Crown or the lord of the fee from whom or from whose ancestor the estate was originally derived, taking it as ultimus heres upon the determination of the estate. This may arise (a) propter defectum, sanguinis, for want of an heir; or, propter delictum tenentis, by the felony of the tenant. Outlawry is the only cause that now exists for escheat under the latter head.

Escheccum, a jury or inquisition.

Escrow (scroll or writing), a writing under seal delivered to a third person, to be delivered by him to the person whom it purports to benefit, when certain specified conditions shall have been performed or satisfied; until which time it does not acquire the force of a deed. If, however, it be delivered to the granter, the delivery is absolute, and the deed takes immediate effect. See In traditionibus, &c.

Escuage (seutum, a shield). Tenure by, was where the tenant was obliged to accompany the lord to war, or to pay a certain sum instead.
Easency, the right of first choice allowed to the eldest coparcener, after the inheritance is divided into shares.

Esquires, are strictly speaking only (a) the younger sons of peers, and their eldest sons; (b) the eldest sons of knights and their eldest sons; (c) by creation; (d) by office; and (e) foreign peers.

Essence. Time, &c., is said to be of the essence of a contract when it is understood by both parties that any departure from the stipulations respecting it shall constitute a breach invalidating the contract.

Essoin, Essoign. To cast or obtain an essoin is to be excused for non-appearance in Court when summoned.

Estate, the condition and circumstance in which a person stands with regard to (1) those around him, (2) his property. Hence estate means (3) the quantum or quality of the interest which a person has in property. Estates may be (a) legal or equitable, (b) real or personal, (c) vested or contingent, (d) in possession or in expectancy; (e) absolute, determinable, or conditional; (f) sole, joint, or in common; (g) of freehold or less than freehold.

Estate clause, is one added to the description of the parcels in a conveyance, &c., and which purports to pass all the estate, claim, &c., of the grantor. By the Conveyancing Act, 1881, c. 41, s. 63, its insertion is for the future rendered unnecessary.

Estates of the Realm, the three branches of the Legislature—The Lords Spiritual, the Lords Temporal, and the Commons.

Estoppel, an admission by which a person is concluded or prevented from bringing evidence to controvert it, or prove the contrary. It may be—

1. By matter of record, which imports such absolute and incontrovertible verity, that no person against whom it is produced is permitted to deny it.

2. By deed. No person can dispute his own solemn deed, which is therefore conclusive against him, and those claiming under him, even as to facts recited in it.

3. By matter in pais; e.g., a tenant cannot dispute his landlord's title. This includes estoppel by misrepresentation or negligence.

Estovers, or botes (g. e.), a right to take wood in reasonable quantities for house purposes or repairs. This a tenant for life or years may do on his holding, and some commoners on their lord's waste.

Estrays, such valuable animals as are found wandering in a manor or lordship, the owner whereof is not known. After proclamation has been duly made, and the lapse of a year and a
day, they become the property of the Crown or its nominee, who is usually the lord.

**Estreat**, to enforce a recognisance which has been forfeited. This is done by sending an extract (estreat) or copy to the proper authority to be enforced.

**Estrepe**, to make spoils in lands to the damage of another.

**Etiquette**, a code of honour. The Attorney-General is the chief authority as to the etiquette of the bar.

**Eviction**, dispossession of land. See Ejectment.

**Evidence**, proof, either written or unwritten, of allegations in issue between parties. It may be (a) direct or indirect, which latter includes circumstantial evidence, i.e., that which seeks to establish a conclusion by inference from proved facts; (b) substantive, i.e., directed to proof of a distinct fact, or corroborative, i.e., in support of previous evidence; (c) intrinsic, i.e., internal, or extrinsic (sometimes called parol), i.e., which is not derived from anything to be found in the document itself; (d) original (see Primary) or derivative, i.e., which passes through some channel, e.g., hearsay, parol, and reported evidence, as opposed to original documents, or evidence as to matters of certain knowledge. See Relevancy, Affirmanti, and Hearsay for the chief rules as to evidence. See also Ambiguity.

**Evidents** (Sc.), title deeds.

**Ex abundanti cautelâ** (from abundant or excessive caution).

**Ex antecedentibus et consequentibus fit optima interpretatio**.—(The best interpretation is made from the context.)

**Ex assensu patris.** See Dower.

**Ex cathedrâ**, with the weight of one in authority; originally applied to the decisions of the Popes from the chair.

**Ex contractu**, **Ex delicto.** See Action.

**Ex debito justitiae** (from what is due of right—applied to relief which the Court has no discretion to refuse.)

**Ex diuturnitate temporis omnia præsumuntur rite esse acta.**—(After a lapse of time everything is presumed to have been properly done.)

**Ex dolo malo non oritur actio.**—(No right of action can arise out of a fraud.)

**Ex gravi querelâ**, a devisee’s writ to recover lands. Abolished.

**Ex mero motu**, of his own accord.

**Ex nudo pacto non oritur actio.**—(From a nude contract, i.e., one not supported by consideration, no right of action can arise.)

**Ex officio**, by virtue of his office. See Information.
Ex parte application, one made by a person who is not a party; (2) one made in the absence of the opposite party.

Ex post facto, made after the occurrence, e.g., legislation, that which has, or would have, if passed, a retrospective application.

Ex provisione viri. See Tail.

Ex relatione amici, narrated to the reporter by a friend.

Ex turpi causâ non oritur actio.—(From an immoral cause, i.e., on a contract founded on an immoral consideration, no right of action can arise).

Ex vi termini, (from the force or meaning of the expression).

Exaction, a wrong done by an officer, or one in pretended authority, by taking a reward or fee contrary to law.

Examination of witnesses, is an interrogation on oath. It may be vivâ voce or by written interrogatories (q. c.); by a court, an officer called an examiner, or a commission. Examination in chief, is made by the party calling the witness; cross-examination, by the opposite party, which again may be followed by a re-examination by the former party. See Hostile.

Exambion (Sc.), exchange of land.

Exceptio non numeratæ pecuniaræ (Roman law), the defence that the money had never been advanced.

Exceptio probat regulam de rebus non exceptis.—(An exception proves the rule concerning things not excepted.)

Exceptio rei judicatae, a defence that the matter has been already decided in another court between the same parties.

Exception, in conveyancing, something excepted from the grant. See Reservation. (2) An objection, e.g., to bail. (3) See Bill of Exceptions, and 42 & 43 Vict. c. 49, s. 39.

Excerpta, or Excerpts, extracts.

Excess. When a defendant pleaded to an action of assault that the plaintiff trespassed on his land, and he would not depart when ordered, whereupon he molliter manus imposuit, gently laid hands on him: the replication of excess was to the effect that the defendant used more force than necessary.

Exchange, Deed of, an original Common Law conveyance, for the reciprocal transfer of interests ejusdem generis, e.g. fee simple for fee simple, the one in consideration of the other. It takes place between two distinct contracting parties only, although several persons may compose each party. Exchanges are now usually effected by mutual conveyances, or by an order of exchange given by the commissioners under the Inclosure Act, 8 & 9 Vict. c. 118. See Equality, Bill of Exchange. (2) See Rate, Re-exchange.
Exchequer, a public office which manages the revenues, and to the credit of which at the Bank of England the receipts from customs, &c. are paid.

Exchequer Bills, are bills of credit issued by order of Parliament, on which the Bank advances money to Government. These constitute the chief part of the unfunded public debt.

Exchequer Court of, formerly consisted of two divisions (a) of revenue, and (b) of common law. See Quominus. It had also an equitable jurisdiction. As (a) it enforced the proprietary rights of the Crown; as (b) it tried all civil common law actions except real actions. By the Judicature Act, 1873, it was made the Exchequer Division of the High Court, and by Order in Council it was in 1881 merged in the Queen's Bench Division.

Exchequer Chamber, Court of, was (a) a court for debating weighty points of law; (b) a court of error, or appeal, from the Superior Courts of Common Law, appeal from it lying only to the House of Lords. By the Judicature Act this court was abolished, and its jurisdiction transferred to the Court of Appeal.

Excise, the duty on certain articles produced and consumed within the realm, e.g. spirits. (2) The duties or assessed taxes on licenses.

Excommunication or Excommengement, an ecclesiastical interdict or censure. By the greater excommunication a person was rendered incapable of any legal act; by the lesser he was merely debarred from participation in the sacraments. The writ de excommunicato capiendo, which formerly lay to enforce decrees of an Ecclesiastical Court, is now replaced by that de contumace capiendo (q. v.). If a person does not submit within 40 days of the sentence of excommunication, he can be imprisoned for six months.

Excommunicato deliberando, a writ to the sheriff for delivery of an excommunicated person out of prison, upon certificate of his conformity to the ecclesiastical jurisdiction.

Excusable Homicide, is where a man kills another either by misadventure or in self-defence. See Homicide.

Excuse, to seize and detain by law.

Execute, to accomplish, perform, complete. To execute a deed is to complete it by signing, sealing, and delivery. (2) The Statute of Uses, 27 Hen. VIII. c. 10, is said to execute a use when it converts a use or trust estate into a legal one. (3) To exercise, e.g. a power of appointment. (4) To enforce e.g., a judgment. See Execution.

Executed, completed, performed. An executed consideration
is one which is performed before the promise upon which it is founded is made, as where A. bails a man's servant, and the master afterwards promises to indemnify A.; but if a man promises to indemnify A. in the event of his bailing his servant, the consideration is then executory, i.e. to be performed after the contract is made. See Consideration, Agreement. An executed trust is one in which the disposition (or "limitations") of the beneficial estate is complete and final; an executory trust is one in which the limitations are incomplete and in the form of general directions to be carried out in detail by a future deed or declaration of trust. As to executed fines, see Fine. (2) Vested, as opposed to contingent, e.g. remainders. (3) In possession, as opposed to executory, e.g. interests.

Execution, of a deed, see Execute. If a deed be executed by an attorney he must be appointed by deed. The proper way for him to execute it is as follows: "A. B." (the principal) "by C. D. his attorney"; or "C. D. by authority of A. B." See 44 & 45 Vict. c. 41, s. 46. It should also be delivered as the act and deed of the principal. As to execution by a vendor, see 44 & 45 Vict. c. 41, s. 8. (2) Of a will, see infra, next title. (3) Of a power, see Execute. Defective execution is one which has not duly complied with the prescribed formalities. (4) The enforcing of a judgment or order of a court. This is effected by writ of execution, or final process, addressed to the sheriff, who is said to execute the writ when he carries out the mandate thereby given him. See Writ, Elegit, Fieri Fucias, Capias. Equitable execution is effected by the appointment of a receiver of the rents and profits by a court of equity, in cases where the legal estate is not in the person against whom the execution is directed. As to continuing execution, see Sequestration. (5) The carrying out by the sheriff or his deputy of a sentence against a criminal, especially of a capital sentence.

Execution of Wills. A will must be in writing (except in the case of soldiers and sailors in active service) and signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction; and such signature must be made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and each witness must attest and subscribe the will in the presence of the testator.

Executione faciendâ in withernamium. See Elongata.

Executione judicii, a writ directed to the judge of an Inferior Court to do execution upon a judgment therein, or to return some reasonable cause wherefore he delays the execution.
Executive, that branch of the Government which puts the laws into execution, as distinguished from the legislative and judicial branches.

Executor, a person appointed by a testator in his will or any codicil thereto to carry out the directions and requests therein contained with reference to his personal estate. The duties of an executor are to bury the testator, to collect the estate, and to pay debts and legacies. An executor may be nominate, i.e. named as such, or by the tenor of the will, i.e. appointed by inference. He must prove the will within six months of the testator’s death, but meanwhile he may perform all the duties incident to his office. He is allowed a year, called the executor’s year, to realize the estate before he is bound to distribute it. See De non tort, Administration, Assets, Debt, Retainer. Executor lucratum, one who has assets of a testator who in his lifetime made himself liable by a wrongful interference with the property of another.

Exeutory, that which is not completed, which requires something to be done, or to happen, before it is perfect or assured —opposed to executed (q. v.). An exeutory interest is one which is to arise at a future time, and is created by an exeutory limitation. It differs from reversion in that these, though deferred, have a present existence, and from remainders in that these must be “supported” by an existing (or “particular”) legal estate. It may arise (a) under a will, when it is called an exeutory devise or bequest; (b) as to lands, under the Statute of Uses, 27 Hen. VIII., c. 10, when it is called a springing or shifting use; (c) as to personality, by deed inter vivos. See Perpetuity, Thel- lansson Act. An exeutory devise in a will must be construed, if possible, as a contingent remainder (q. v.). As to exeutory fines see Fine.

Executrix, a female executor. A married woman may be executor; as to which see 45 & 46 Vict. c. 75, s. 18.

Exempla illustrent non exstrint legem.—(Examples illustrate, but do not restrain the law.)

Exemplary, or Vindictive, damages, are those given in respect of tortious acts, committed through malice or other circumstances of aggravation; and include, besides mere compensation for the injury inflicted, an additional fine by way of punishment.

Exemplification, a certified transcript or copy, under the great seal, or under the seal of a particular court or public office. Exemplificatione, a writ granted for the exemplification or transcript of an original record.

Exempli gratia, [abbrev. ex. gr. or e. g.], for the purpose of example, for instance.
Exempts, persons privileged, or not bound by law.
Exequatur, the permission given by a government to a foreign consul to enter on his appointment.
Exercise, to make use of; (2) to execute, e.g. a power.
Exercitor navis (Roman law), the temporary owner or charterer of a ship. See Actio Exercitoria.
Exercitual, consisting of military accoutrements, e.g. a heriot.
Exhereditatio (Roman law), the act of disinheriting.
Exhibit, a document or other thing shown to a witness when giving evidence, and referred to by him in his evidence; usually a document referred to in an affidavit, and therein identified by a letter or number.
Exigent, or Exigi facias, a writ commanding the sheriff to exact, or call on the defendant at five successive County Courts (or hustings, if in London): if he fail to appear he is outlawed (q. v.).
Exigenter, an officer who makes exigents, proclamations, &c.
Exilium,-spelling, exile; it is applied especially to the turning of enfranchised tenants out of their holdings.
Exitus, children, offspring. (2) The conclusion of the pleadings.
Exlegalitus, Exlex, an outlaw.
Exoneration, relieving a person or estate from liability or burden by placing it on another. Thus a testator is said to exonerate his personalty from payment of his debts if he charges them on other part of his estate which is not primarily liable.
Exoneretur, an entry of discharge of the bail, made on the recognisance or bail-piece, in an action in the Mayor's Court.
Exordium, the introductory part of a speech.
Expatriation, the forsaking one's own country, and renouncing allegiance, with the intention of becoming a permanent resident and citizen in another country. See Naturalization.
Expectant or in expectancy, estates or interests which are to come into possession and be enjoyed in futuro; e.g. reversions.
(2) Expectant Heir, one who has a prospect of coming into property on the death of another person. Courts of Equity have always protected such a one against the designs of money-lenders, setting aside agreements which they consider unconscionable, called catching bargains, on the ground of the inexperience or necessitous condition of the borrower, and decreeing, as a rule, that the expectant or reversionary interest shall be charged with the money actually advanced, and interest at five per cent.
Expede (Sc.), to make out or "pass," e.g. a writ.
Expediment, the whole of a person's goods and chattels.
Expedit reipublicæ ne sudœsœ quis male utetur.—(It is for the public good that no one use his property badly.)
Expedit reipublicae ut sit finis litium.—(It is for the public good that there be an end of litigation.)
Experientia docet.—(Experience teaches.)
Experts, sworn appraisers. (2) Witnesses who give evidence upon matters of science. (3) Professed judges of handwriting.
Expiliation, robbery—especially, of an heir.
Expiring Laws Continuance Act, an Act passed at the end of each session for the purpose of continuing, generally for another year, temporary Acts which would otherwise expire.
Expleta, Expletia, the rents and profits of an estate.
Exposing, in a thoroughfare, a person infected with a contagious disease, is punishable as a common nuisance; (2) children under two years of age, see 24 & 25 Vict. c. 100, s. 27; (3) the person. See Indecent Exposure.
Express, that which is not left to implication; e.g. an express promise, express trust. Express colour, in pleading was a form of evasive pleading, avoiding the general issue. Abolished by C. L. P. Act, 1852.
Expressio corum quae tacitè insunt nihil operatur.—(The expression of those things which are tacitly implied has no effect.)
Expressio unius est exclusio alterius.—(The mention of one is the exclusion of another; i.e., by particularising one or more members of a class, or objects of a group, an intention may be indicated to exclude the rest.)
Expressum facit cessare tacitum.—(What is expressed makes what is silent to cease; i.e., where we find an express declaration we should not resort to implication.)
Expromissio (Roman law), a species of novation; a creditor's acceptance of a new debtor (expromissor) who took the place of the old debtor, who was discharged. It differed from delegation (q. v.), in that the consent of the original debtor was not necessary.
Expropriation, compulsory taking of property for compensation, e.g., by railways.
Expunge. See Proof.
Extend, to value property. See Extent.
Extension, of time, further time allowed by way of indulgence to pay a debt, put in a pleading, or the like.
Extent, or Exsxti facias (that you cause to be extended, or appraised at their full value), the peculiar remedy to recover debts of record due to the Crown; it differs from an ordinary writ of execution at the suit of a subject, because under it the lands and goods of the debtor may be taken at once in order to
compel the payment of the debt. An extent in chief is made by the Crown to recover its own debt. An extent in aid is made to recover a debt due to a Crown debtor from a third person. Where the debt is in danger of being lost, an immediate extent issues on affidavit, without a scire facias (q.v.). See Diem clausit extremum. Write in the nature of extent were formerly issued by private persons in certain cases.

Extinguishment, the destruction or cessation of a right, either by satisfaction or by the acquisition of one which is greater. Thus a debt is extinguished by payment, or by the creditor's acceptance of a security higher in the estimation of law, e.g., a bond instead of a simple contract; an easement, by release, or by acquiring the tenement over which the easement existed. See Merger.

Extortion, is when, by colour of office or of right, any person takes by force that which is not due.

Extra costs, those charges which do not appear upon the face of the proceedings, such as witnesses' expenses, fees to counsel, &c., an affidavit of which must be made, to warrant the master in allowing them upon taxation. See Increase.

Extradition, the act of sending by authority of law a person accused of a crime (not being a political offence), to a foreign jurisdiction where it was committed, in order that he may be tried there. This is usually the subject of treaties with the various foreign countries, which are authorised by statute. See the Acts of 1870 and 1873.

Extrajudicial, out of the regular course of legal procedure; e.g., a remedy, or dictum.

Extra legem positus est civiliter mortuus.—(He who is placed out of the law is civilly dead.)

Extraordinary. Certain writs are so called, as opposed to the ordinary remedy by action. See Resolution.

Extra-parochial, outside of any parish.

Extra-territoriality, immunity from a country's laws, such as that enjoyed by an ambassador.

Extravagantes, those decretal epistles which were published after those of Pope Clement V. (published 1418), and not at first incorporated into the canon law.

Extra viam, out of the way.

Extra vires. See Ultra vires.

Extrinsic. See Evidence.

Eye-witness, one who gives evidence as to facts seen by himself.

Eyre, Justices in (Itinere, journey, circuit), the old name
for judges of assize, who were said to be itinerant or errant when they went on circuit.

**F.**

F, the mark branded on felons who took benefit of clergy (*q.r.*).

Fabric-lands, those given for repair of a church, &c.

Fac simile (*make it like*), an exact copy. *Fac-simile probat*.* Where the construction of a will may be affected by the appearance of the original paper, the court will order the probate to pass in *fac simile*, as it may possibly help to show the meaning of the testator.

Fact. *See Question; Demurrer, De facto, Mistake.*

*Facta sunt potentiora verbis.*—(Deeds are more powerful than words.)

F. O. B. (*Free on board*), a term frequently inserted in contracts for the sale of goods to be conveyed by ship, meaning that the cost of shipping is to be paid by the vendor.

Factor, a substitute in mercantile affairs; an agent employed to sell goods or merchandise consigned or delivered to him by or for his principal, for a compensation commonly called *factorage* or commission. *See Broker.* (2) (*Sc.*), a land agent.

Factors' Acts, various statutes passed for the purpose of protecting persons dealing *bona fide* with a factor, and without knowledge of any limitation on his power to deal with the goods.

Factory, a place where traders reside in a foreign country to carry on their trade. (2) A building in which goods are manufactured. The Factory and Workshop Act, 1878, consolidates the various Acts relating to the management of factories and the persons employed therein.

*Factum à jure quod ad ejus officium non spectat, non ratum est.*—(An action of a judge which relates not to his office, is of no force.)

Faculties, Court of, a jurisdiction or tribunal belonging to the Archbishop, and superintended by a Master of the Faculties, which does not hear pleas, but grants *faculties* or licenses; e.g., to erect monuments in a churchyard, or to remove a body after burial.

Faculty of advocates, the college or society of advocates in Scotland.

Faggot vote, is where a man has a bare formal qualification to vote for members of parliament, acquired by him for the mere purpose of influencing the result of an election.
Failing of record, when an action is brought against a person who alleges in his plea matter of record in bar of the action, and avers to prove it by the record; but the plaintiff pleads nul titel record, viz., denies there is any such record: upon which the defendant has a day given him by the court to bring it in; if he fail to do it, then he is said to fail of his record, and the plaintiff is entitled to sign judgment.

Faint action, or pleader; a feigned action, or false plea.

Fair, a larger market, held at longer intervals. Both are franchises (q.v.).

Fait enrolle, a deed enrolled.

Faitours, evil-doers; vagabonds.

Falage. See Foldage.

Fald-stool, or Fold-stool, a place at the south side of the altar where the sovereign kneels at his coronation.

Fallow, land ploughed and left unsown.

Falsa demonstratio non nocet.—(False description does not vitiate; e.g., a legacy or devise. See Nihil facit, &c.)

Falsa orthographia, sive falsa grammatica, non vitiat concessionem.—(Bad spelling or bad grammar does not vitiate a grant.)

False imprisonment, restraint imposed on a man’s liberty without proper legal authority.

False judgment, Writ of, or error, a process that lay by way of appeal to the Superior Courts from inferior courts not of record, to amend errors in their proceedings.

False news, To spread, whereby to make discord between the sovereign and his subjects, or concerning any great man of the realm, is a misdemeanour. See 3 Edw. I. c. 34.

False pretences, Obtaining property, &c., by. This offence is closely allied to larceny, but distinguishable from it, as involving a misrepresentation with view to defraud.

False Return, to a writ made by a sheriff, &c., is matter for an action for damages.

False signal or lights, Exhibiting, is a felony, punishable with penal servitude for life.

False verdict, A jury giving a, might formerly be prosecuted by writ of attainder by the injured party. Abolished 1826.

Falsify. To falsify in taking accounts is to prove a debit charged to be incorrect. See Surcharge. (2) To defeat, reverse; e.g., a judgment. (3) To make incorrect, to alter fraudulently; e.g., a pedigree or record.

Falsing of dooms (Sc.), reversal of a decree.

Falsus in uno, falsus in omnibus.—(False in one thing, false in all.)
Fang. A thief taken with the fang is one caught having the stolen property upon him.

Fare, Railway. Travelling without prepayment, and with intent to defraud, is punishable on summary conviction. 8 Vict. c. 20, s. 103.

Farleu, money paid by tenants in lieu of a heriot.

Farm, land let on lease under a rent, generally payable annually. To farm let, are operative words in a lease.

Fast-days, days of abstinence and mortification appointed by the Church. They may also be appointed on special occasions by Royal proclamation, and on such days no legal business is transacted.

Fastermans, or Fasting-men (Saxon), sureties who were fast bound to answer for each other’s peaceable behaviour.

Fasti (Roman law). Fas signifies divine law; the epithet fastus is properly applied to anything in accordance with divine law, and hence those days upon which legal business might without impiety be transacted were technically denominated fasti dies, i.e., lawful days, as opposed to dies nefasti.

Futetur facinus qui judicium fugit.—(He who flees judgment confesses his guilt.)

Favour. See Challenge for.

Fealty, the oath of fidelity which used formerly to be taken by every free and copyhold tenant to his lord. See Homage.

Feasance, Fesance, doing. See Malfeasance.

Fee, a remuneration for services. (2) Estate in fee, an estate of inheritance, i.e., which goes to the heir of the owner if he dies without disposing of it. It is divided into three species; (a) fee-simple; (b) qualified or base fee; (c) fee-tail. (3) A holding, e.g., a knight’s fee. See Tail, Descent.

Feed. An accruing interest is said to feed an estoppel when it enables a person to give effect to a grant previously made, which previous to such accruer had no efficacy except by way of estoppel.

Fee-farm-rent. Where an estate in fee was granted, subject to a rent in fee of at least one-fourth of the value of the lands at the time of its reservation, such rent was called fee-farm, because a grant of land reserving so considerable a rent is only letting lands to farm in fee-simple, instead of the usual method of life or years. See Quia Emptores.

Fee-simple, a freehold estate of inheritance, absolute and unqualified. This is the highest and most ample estate known to the law, out of which all others are taken or “carved.” An owner in fee has absolute power of disposition. This estate is
created in a deed by the limitation to A. and his heirs; but in a will the intention to give a fee is sufficient without these words. In conveyancing, since the Conveyancing Act, 1881, it will be enough to use the words "in fee simple" without "heirs."

Feigned issue, a proceeding whereby an important point may, by consent of the parties, be determined by a jury, without the formality of bringing an action, or raising it in the pleadings, where an action is in progress. Formerly questions of fact were often raised on a pretended wager between the parties. But by 8 & 9 Vict. c. 109, and by the Judicature Acts, facilities have been given to the Courts to refer issues to a jury for trial, and the resort to feigned issues is now obsolete.

Feint. See Faint.

Fellow Servant. See Master, Employer's Liability.

Felo de se (a felon with respect to himself), a suicide. By 45 & 46 Vict. c. 19, suicides may now be buried during the daytime, and, by consent of the ordinary, with a religious service.

Felonious homicide, killing a human creature without justification or excuse. See Homicide.

Felony, at common law, was every offence which caused a forfeiture besides being punishable by sentence. Forfeiture has, however, been abolished, like attainer and escheat; and now felony signifies any indictable offence which is greater than a misdemeanor.

Feme-covert, a married woman. See Baron.

Feme-sole, an unmarried woman.

Fence or Defence-months, otherwise called Close time, the time during which wild beasts, birds, or fishes are occupied in bringing forth their young, incubating, or spawning, and the law consequently forbids them to be taken or destroyed.

Fee of fee., one enfeoffed. See Feoffment.

Feoffee to uses, the person in whom, before the Statute of Uses, the legal seisin of the land was vested, the beneficial ownership or use being in the cestui que use. See Use.

Feoffment, the possession of a freehold estate, which was transferred by a ceremony technically called livery of seisin, which consisted of a public delivery of the land by the owner (or feoffor) to the feoffee. This was usually recorded in an instrument called a deed of feoffment. Except in the case of an infant tenant in gavelkind, who can thus transfer his estate at the age of fifteen, feoffment is now disused. Previous to 1845 it had a tortious operation (i.e., by wrong); inasmuch as if a man enfeoffed another of a greater estate than he himself possessed, the feoffee became thereby entitled to the whole estate he was enfeoffed of, to the exclusion of the rightful owner.
Fere natiue, wild animals. See Animals.
Ferie (Roman law), holidays, public or private.
Ferry, the right to carry persons or goods across a river for a toll. It is a franchise (q. v.).
Feu (Sc.), vassal tenure, as distinguished from ward holding or military tenure; the service being commuted for a return in money called feu-duty, analogous to rent. To feu is to lease.
Feud, was a grant of land (or (2) the land itself) made by a feudal superior or lord to a tenant or feudatory in return for certain services (q. v.). The lord in return was bound to protect the tenant. This was called the feudal system, which prevailed over the greater part of Europe in the middle ages, and was perfected by William the Conqueror in this country, thereby displacing the Saxon laws of property. See Dominium.
Fi. Fa. See Fieri.
Fiar (Sc.), the person in whom is the ownership of property, real or personal, subject to the estate of a life-renter (q. v.).
Fiat (let it be done), a decree; an order or warrant by a judge or other constituted authority. Fiat in Bankruptcy was the Lord Chancellor's authority to a commissioner of bankrupts to proceed with a bankruptcy. Abolished in 1849.
Fiat justitia, ruat caelum.—(Let right be done, though the heavens should fall.)
Fianunt, warrant.
Fictio legis iniique operatur aliqui damnum vel injuriam.—(A legal fiction does not properly work loss or injury.) For instances of legal fictions, see Ejectment, Seduction, Treaver.
Fide-jussor (Roman law), a surety whose heirs were bound.
Fidépromissor (Roman law), a surety who was not a Roman citizen, and could not therefore bind himself by the word spondeo. His heirs were not bound. See Sponsor.
Fidei-commissum (Roman law), a trust imposed on a person by will. If it related to the inheritance it was called fidei-commisaria hereditas.
Fiducia (Roman law). If a man transferred his property to another, on condition that it should be restored to him, this contract was called fiducia, and the person to whom the property was so transferred was said, fiduciam accipere, and to be a fiduciary.
Fief, a fee; a manor; a possession held of a superior.
Fieri facias, usually abbreviated fi. fa., a writ whereby one who has recovered judgment for any debt or damages may obtain execution of the personal property of the judgment debtor, excepting only his wearing apparel, &c., to the value of 5l. Ar
elegit may issue after the fi. fa. if the judgment be not satisfied. See Elegit; and for the various returns which the sheriff may make, Nulla bona, Vinditione Exponas, and next titles. Distingas nuper vicecomitem is a writ directing a sheriff to distrain on his predecessor, where the latter has gone out of office without selling goods taken by him under a fi. fa.

Fieri facias de bonis ecclesiasticis, a writ addressed to the bishop (or archbishop), where the judgment debtor is stated in the sheriff's return to be a beneficed clerk. A sequestration then issues.

Fieri feci, a return made by a sheriff when he has executed a writ of fi. fa., and levied the debt or part of it.

Fieri non debut, sed factum valet.—(It ought not to have been done, but being done it is binding; e.g., a marriage without proper consents.)

Filarcer, an officer who filed original writs, &c., at Westminster.

File, literally a thread or wire on which writs, &c., were fastened when deposited with the proper officer.

Filliation, the relation of a son to his father.

Filum, a thread. Uneque ad medium filum, to the middle line, e.g., of a stream or road.

Final. See Judgment, Interlocutory.

Finding, the conclusion of a court or jury as to a question of fact at issue. (2) See Grand jury. (3) A finder of lost property may hold it against every one except the true owner.

Fine, a money penalty or mulct. (2) A sum paid by a feudal tenant to his lord, usually on a change of estate, e.g., in copyholds on death or alienation. Such fines may be (a) fixed or certain, or (b) arbitrary or at the will of the lord, provided it be reasonable. (3) Before the Fines and Recoveries Act, 3 & 4 Wm. IV. c. 74, a fine was a fictitious judicial method of transferring property, so called because a fine was paid on compromising the suit. It consisted of five parts: (a) the præcipe, (b) the licentia conoordandi, (c) the agreement between the parties, whereby one acknowledged a supposed right in the other, (d) the note of the proceedings, and (e) the Chirograph, which recited the whole proceedings. There were four kinds of fine, whereof the first was called executed, the three last executory, as they did not presuppose a previous conveyance, viz., (a) sur cognizance de droit comme que il ad de son don; (b) sur cognizance de droit tantum; (c) sur concessit; and (d) sur don grant et render. See Cognizance, Deforciant. Fines were also used prior to the above-named Act, by tenants in tail to bar the entail (see Recovery), and by a married woman conveying her estate jointly with her husband. See Acknowledgment.
Fine force, where a person acts under compulsion.

Firm, the style, and (2) the members of, a partnership.

First impression, A case of, is one raising a new point of law.

First instance, Court of, that before which an action is first brought for trial, as contrasted with a Court of Appeal.

Fiscal, belonging to the exchequer or revenue.

Fishery, The right of, may be royal, public, or private. A public or common right of fishing is to fish in the sea and navigable rivers as far as the tide runs up.

Fish-royal, whale and sturgeon.

Fisk (Sc.), the right of the Crown to the moveable estate of a person pronounced rebel.

Fitzherbert, a writer upon law temp. Henry VIII.

Five-mile Act, 35 Eliz. c. 2 (concerning popish recusants).

Fixtures, things of an accessory character, annexed to houses or lands, which become, immediately on annexation, part of the freehold, in conformity with the maxim quicquid plantatur solo, solo cedit, and belong to the owner of the freehold. This rule is, however, much relaxed, and especially as between landlord and tenant, in favour of the person putting up the fixtures. Thus trade fixtures and ornamental fixtures may be removed at the end of his term by the tenant, provided he does thereby no material injury to the freehold. Agricultural fixtures are specially protected by legislation.

Flagrant delicto (in the very act of committing the crime).

Fleet Books, contain the entries of marriages solemnized in the Fleet Prison from 1686 to 1754. They are not admissible in evidence. The Prison was abolished in 1842.

Fleta, or Commentarius Juris Anglicani, a treatise upon law, written in the time of Edward I., and founded on Bracton.

Floating Capital, that retained to meet current expenses.

Floor of the Court, the part between the judge and the front row of counsel. Here a party stands who appears in person.

Flotsam or Floatsam, goods floating upon the sea, which belong to the Crown, unless claimed by the true owners thereof within a year and a day. See Jetsam, Ligan.

Fenius nauticum (nautical usury). See Bottomry.

Fœtus, a babe in the womb. Feticide, abortion (q. v.).

Folk or Folk, the people. Folkland, under the Saxon system, was the public or common land of the community as opposed to boc-land (q. v.), which was the property of private individuals. A single person, however, could have a life estate in folk-land. Folk-mote, or gemote, a general assembly or Court to consider matters concerning the commonwealth. Folk-right, the common law.
Foldage, the lord's right to have his tenant's sheep to graze on his land so as to manure it.

Fold-course, the lord's right to graze his sheep on his tenant's land, or vice versa. (2) Land subject to this right.

Folio (abbrev. fol.), a certain number of words, in conveyancing amounting to seventy-two, and in parliamentary proceedings to ninety. (2) The number of a page. (3) The largest size of a book.

Foot. See Fine, Execution.

Force, unlawful violence. It may be (a) simple, (b) compound, i.e., when some other crime is committed at the same time, (c) implied. "With force and arms" (vi et armis), words usually inserted in an indictment, though not absolutely necessary.

Forcible Detainer, is properly applied to the wrongful detention, vi et armis, of lands and tenements taken by forcible entry. See Detainer.

Forcible entry, a taking possession of lands, &c., with a strong hand and with violence, which is both a civil and a criminal injury.

Forcheapum, forestalling the market.

Foreclosure. A mortgagee, or any person claiming an interest in the mortgage under him, can, by a foreclosure action, compel the mortgagor, after breach of the condition in the deed for repayment of the mortgage-money, to redeem, i.e., pay off, the mortgage by a certain day, or in default be foreclosed, or debarred, from his equity of redemption. This remedy is usually adopted by a mortgagee who has not a power of sale, e.g., an equitable mortgagee. See now 44 & 45 Vict. c. 41, s. 25.

Great indulgence is shown to a mortgagor to prevent foreclosure, if he has any prospect of paying. An infant mortgagor is given a day to show cause within six months after attaining his majority.

Foregift, a premium for a lease.

Fore-hand Rent, rent payable in advance.

Foreign. Any country (e.g., Scotland) which has a jurisdiction of its own, and is independent of our tribunals, is alike "foreign."

Foreign attachment (here "foreign" means "out of the liberties of the city"), a custom which prevails in the cities of London, Bristol, Exeter and Lancaster, whereby, if a defendant sued in the Court of the Mayor or Sheriff make default in appearance, a debt owing to him may be attached in the hands of the debtor. It has lately been decided (see 6 App. Ca. 393) that the fictitious proceedings hitherto usually recited are contrary to the true custom, and invalidate the attachment. See Garnishee.
Foreign Bill of Exchange, one which is not an inland bill (q. e.).

Foreign Enlistment Act, 1870, prohibits any British subject, without licence from the Crown, from accepting a commission in the service of a state at peace with us, or from building or equipping a ship for the service of any state at war with such state.

Foreign law, is a question of fact, which has to be proved in our Courts by the evidence of a skilled witness.

Foreign plea, one objecting to the Court's jurisdiction.

Forejudger, a judgment whereby a person is deprived of a thing or right. A solicitor was said to be forejudged the Court when he was expelled.

Forensic, belonging to or applied in courts of justice, e.g., forensic medicine, otherwise called medical jurisprudence.

Foreshore, that part of the shore which is covered by a tide of average height. It forms part of the mainland in matters of jurisdiction, but is prima facie the property of the Crown.

Forest, the exclusive right of keeping "beasts and fowls of forest and chase" within a certain district. The Forest Courts are now obsolete.

Forestall. See Engross (2).

Forfeiture, is where a person is deprived of some right or property in consequence of doing or omitting to do a certain act. Prior to 1870 forfeiture of lands and goods resulted from conviction for felony: now it is only caused by outlawry; (2) of a lease, is where the landlord puts an end to the term for breach of contract by the tenant. Against this right the Courts of Equity give relief in many cases. See 44 & 45 Vict. c. 41, s. 14, Rent.

Fogavel, a quit-rent; a small reserved rent in money.

Forgery (the crimen falsi of the Roman law), the false making or alteration of an instrument, which purports on the face of it to be good and valid for the purposes for which it was created, or the false or unauthorised signature of a document, with a design to defraud.

Forinsecus, forisfactus, outlawed.

Forisfamilization (foris, outside; Roman law). A son was forisfamiliated, or put out of the family, if his father assigned him part of his land, and the son expressed himself satisfied with such portion. (2) By Scotch law a child is forisfamiliated who has expressly discharged his claim to legitim (q. e.).

Form, the manner, e.g., of a pleading, as opposed to the matter.

Formedon, Writ of, was brought (de formâ donationis) by a person claiming under a gift (donatio) in tail when out of possession. Now abolished.
Formulary, a form, a precedent.
Forprise, an exception, or reservation. (2) An exaction.
Forschel, a strip of land lying next to the highway.
Forthcoming, Action of, (Sc.), attachment, (q. v.).
Forthwith. When a defendant is ordered to plead forthwith, he must plead within twenty-four hours. In a statute it means within a reasonable time.
Fortune-teller. See Vagrant.
Forty-days' Court, the court of attachment in forests (q. v.).
Forum, a court. Forum competent, one having jurisdiction.
Forum originis, the court of the country of a man's domicile by birth.
Fosterlean, the remuneration fixed for the rearing of a foster-child. (2) The jointure of a wife.
Four corners. That which is apparent on the face of a deed (without any aid from the knowledge of the circumstances under which it is made), is said to be within its four corners.
Fractionem dici non recipit lex.—(The law does not take notice of a portion of a day.) When therefore a thing is to be done upon a certain day, all that day is allowed to do it in. Exceptions to this rule are, however allowed in cases of necessity, and for the purposes of justice, and in cases of documents registered on the same day priority of registration may be shown by the numbers or the like.
Franchise, a privilege or liberty; a royal privilege or branch of the Crown's prerogative subsisting in the hands of a subject by grant or by prescription. These may be (a) such as the Crown can exercise, e.g., the right to wrecks and royal fish; or (b) such as a subject only can exercise, e.g., the right to a market, toll or ferry. It is an incorporeal hereditament. (2) The place where the franchise is exercised. (3) The right to vote at the election of a member of Parliament.
Frank, free. (2) The right possessed (until 1840) by peers, members of Parliament, &c., of franking letters (i.e., sending them free of postage) by autograph.
Frank-almoign (free alms), the tenure by which religious corporations hold land, so called because it was free of service except the trinoda necessitas (q. v.). It was not abolished, as were the other feudal tenures, by 12 Car. II. c. 24. See Tenure.
Frank-bank. See Free-bench.
Frank-marriage, land given by way of dowry to a woman and her husband, free of services.
Frank-pledge. In early Norman reigns everyone was obliged to belong to an association called frank-pledge, the
members of which were mutually responsible for each other's good behaviour. The view of frank-pledge, or management of these associations, was the duty of the local Courts, i.e., the Court leet.

**Frank-tenement**, a freehold estate.

**Frater consanguineus**, a brother by the father's side, opposed to *frater uterinus*, a brother by the mother's side.

**Fraud**, the gain of an advantage to another's detriment by deceitful or unfair means. It may be *(a)* actual, or *(b)* constructive; *(a)* where there is deliberate misrepresentation, concealment, or fraudulent intent; *(b)* where the Court implies it either from the nature of the contract (see *Exemptant Heir*), or from the relation of the parties, as in the case of a trustee and his cestui que trust. Fraudulent dealings with property in particular cases are dealt with by statute, e.g., by a debtor to defraud his creditors. (See the Bankruptcy Acts, *Preference, Conveyance.*)

*Fraud on a power* is where it is so exercised as to violate the intention of the person who created it. Fraud is a ground for setting aside a transaction at the option of the person prejudiced by it, or for recovery of damages. See *Deceit, Mistake, Suppressio veri, Suggestio falsi.*

**Frauds, Statute of**, 29 Car. II. c. 3. The main object of this statute was to take away the facilities for fraud and the temptation to perjury which arose in verbal obligations, the proof of which depended upon unwritten evidence. Its most important provisions are these: *(a)* all leases of lands, &c. (excepting those for less than three years) shall have the force of leases at will only, unless they are in writing and signed by the parties or their agents; *(b)* assignments and surrenders of leases and interests in land must be in writing; *(c)* all declarations and assignments of trusts must be in writing signed by the party (trusts arising by implication of law are, however, excepted); *(d)* no action shall be brought upon a guarantee or upon any contract for sale of lands or any interest in or concerning them, or upon any agreement which is not to be performed within a year, unless the agreement is in writing and signed by the party to be charged or his agent; *(e)* no contract for the sale of goods for the price of £10 or upwards shall be good unless the buyer accept part or give something in part payment, or some memorandum thereof to be signed by the parties to be charged or their agents. See *Tenterden's Act.* As to the maxim "Courts of equity will not allow the Statute of Frauds to be made an instrument of fraud," see 8 App. Ca. 474.

*Fraus est celare fraudem.*—(It is fraud to conceal fraud.)

*Fraus latet in generalibus.*—(Fraud lies hid in general expressions.)
Free entry, egress, and regress, the right to go on and off land at will. *e.g.*, to take emblements.

Free-bench, a widow’s dower out of her husband’s copyholds, to which she is entitled by the custom of some manors. Unlike dower it does not attach, even in right, until the death of the husband. See Dower.

Free-board, land claimed beyond or without the fence; said to be two feet and a half.

Freefold, Right of—Fold-course (*q. v.*).

Freehold, one of the two chief tenures known in ancient times by the phrase “tenure in free socage,” as opposed to land held in villenage or copyholds. (2) An estate is either in fee simple or tail, or for a man’s life (whether his own or another man’s. See *Autre vie*). The owner of such an estate is called a freeholder, which term is also used specially as opposed to leaseholder.

Free-warren, a royal franchise, granted by the Crown to a subject for the preservation of beasts and fowls of warren.

Freight, the sum paid for the carriage of goods by sea. See Dead freight, Charter-party, Affreightment.

Fresh-fine, a fine that has been levied within a year.

Fresh-suit, is where a person when robbed follows and takes the robber.

Friendly (1) Societies. See Benevolent. (2) Suit, one brought by agreement between the parties, to obtain the opinion of the Court upon some doubtful question in which they are interested.

From, excludes the day from which the time is to be reckoned.

Frontager, one who owns property fronting or abutting on a street, seashore, &c.

_Frustrà fit per plura, quod fieri potest per panciara._—(That is needlessly done by many (words) which can be done by less.)

_Frustrà probatur quod probatum non relevat._—(It is useless to prove that which, when proved, is not relevant.)

Fugitation. In Scotland, when a criminal does not obey the citation to answer, the Court pronounces sentence of fugitation against him, which induces, or works, a forfeiture of goods and chattels to the Crown.

Fugitive offenders, see the Act 44 & 45 Vict. c. 69, which provides for the arrest and return of such to that part of the Crown’s dominions where the offence is alleged to have been committed.

Fumage, chimney tax, afterwards called hearth-money. Abolished 1689.

Funcus officio, is used of one who _having discharged his duty_, has terminated his authority or appointment.
Fund, money or securities devoted to a certain purpose; e.g., a fund for payment of debts. (2) Capital; hence to fund is to capitalize. (3) The funds, are the public funded debt of the Government: fund here meant originally the tax on which the loan was charged. See Blended fund, Exchequer Bills.

Funeral expenses. The first duty of an executor is to bury his testator, and he will be given a first charge on the estate for the expenses, provided they be suitable to the condition of the deceased.

Fungibles res, a term applied in the Civil and Scotch Law to things that can be replaced by equal quantities and qualities of the like kind, e.g., a bushel of wheat. A particular horse would not be a fungibilis res, or fungible. See Mutuum.

Furiosi nulla voluntas est.—(A madman has no free will, i.e., he is not criminally responsible.)

Further advance, or charge, a second or subsequent loan of money to a mortgagor by a mortgagee, either upon the same security as the original loan was advanced upon, or with an additional security.

Further assurance, Covenant for, one of the usual agreements entered into by a vendor for the protection of the vendee's interest in the subject of purchase, to the effect that the vendor will at the request of the purchaser execute further assurances for more effectually securing the purchaser's right. By the Conveyancing Act, 1881, c. 41, this covenant is implied in all conveyances made after January 1st, 1882.

Further consideration. Where an action is set down on motion for judgment, and the Court has not in its opinion sufficient materials before it, it reserves the further consideration of the action, and directs certain inquiries, &c., to be made in the meantime.

Furtum non est ubi initium habet detentio per dominum rei.—(There is no theft where the origin of the possession was with the consent of the owner, i.e., where the original possession is lawful, as in the case of a bailee. This rule of the common law was however altered by 24 & 25 Vict. c. 96, s. 3.)

Future estates. See Expectant.

G.

Gage (cadium, a pledge), Estates in, are of two kinds: (1) vivum cadium, living pledge, or vifgage; (2) mortuum cadium, dead pledge, better known as mortgage.
Gager deliverance, when he who has distrained, being sued, has not delivered the cattle distrained; then he shall not only avow the distress, but gager deliverance, i.e. put in surety or pledge that he will deliver them.

Gale, or Gavel, a periodical payment of rent. Hanging-gale, the custom, common in parts of Ireland, of allowing the rent to be permanently six months in arrear. (2) A grant or license to a free miner of the Hundred of St. Briavel’s or the Forest of Dean, to work a mine or quarry. It is given by the Crown’s officer, called gaveler, to the free miners in the order of their application. The gale is descendible like real estate, subject to the due payment of a rent or royalty to the Crown.

Game. A game license must be taken out by any one killing or taking game, i.e., hares, pheasants, partridges, grouse, heath or moor game, black game, bustards, woodcock, snipe, quail, landrail, and deer. Coney (rabbits) are also included in 23 & 24 Vict. c. 90, s. 2, but the effect of s. 5 is practically to make them not game. They and hares are ground game.

Gaming. See Wager.

Ganancial, a species of community in property enjoyed by husband and wife, the property being divisible between them equally on a dissolution of the marriage.

Gang-week, the time when the bounds of the parish are illustrated or gone over by the parish officers; rogation week.

Gaol Delivery, a commission to the judges, &c., to try prisoners at the assizes (q. v.), and deliver them out of gaol.

Garnish, money paid by a prisoner on going into prison. Abolished 4 Geo. IV. c. 48.

Garnishee, a person in whose hands a debt is attached, i.e., who is warned not to pay money which he owes to another person, when the latter is indebted to the person warning or giving notice. See Attachment. In the High Court the notice is given by an order called a garnishee order, as to which see R. S. C. 1883, Ord. xiv.

Garter. See Kings-at-arms.

Garth, a close; a dam or weir.

Gavel, Gabel, or Gavelgeld. See Gale.

Gavelet, a kind of cessavit (q. v.), or action for recovery of arrears, peculiar to Kent and London.

Gavelkind, (land that yields rent, i.e., not held by knight service), descends to all the sons equally, and in default of sons to the daughters in the ordinary manner. It was retained in Kent only, when the Normans introduced the law of primogeniture into the rest of the kingdom. The widow or widower of
a deceased tenant takes half, and only till marrying again. An infant tenant may alien at feoffment (q. v.) at fifteen. All land in Kent is presumed to be of this tenure unless the contrary is proved.

Gemot, a moot, meeting, public assembly. See Folk.

General agent. See Agent.

General average. See Average. General Average Act, is the act of deliberately sacrificing part of a ship's gear or cargo in order to avert a total loss of the common adventure, under circumstances in which it is the only alternative. It must be an act out of the course of the master's ordinary duty as agent of the shipowner.

General, demurrer, &c. See Demurrer, Legacy, Meeting, &c.

General issue, was a plea simply traversing modo et forma the allegations in the declaration; e.g., the plea of “not guilty” in torts, “never indebted” to money counts, or “nunquam assumpt” to actions on simple contract. In criminal proceedings, the general issue is “not guilty,” which is pleaded vivē voce by the prisoner at the bar. See Mute.

General lien, a right to detain a chattel, &c., until payment be made, not only of any debt due in respect of the particular chattel, but of any balance that may be due on general account in the same line of business.

General Quarter Sessions. See Quarter Sessions.

General ship, one which is not chartered to a particular person, but which undertakes to carry for freight the goods of any one wishing to send them to any of the ports it is bound for. The contract with each freighter is usually made by bill of lading.

General verdict, the decision of the jury, when they find n. general terms for the plaintiff or defendant.

General words. It is usual in conveyances to add to the description general words including the various easements and rights that the grantor may have over the property and intend to convey, and also various appurtenances which either legally or by repute form part of the main subject of the grant. By the Conveyancing Act, 1881, s. 6, the insertion of these words is for the future rendered unnecessary.

Generalia specialibus non derogat.—(General words do not derogate from special.)

German. See Cousin.

Gestation, the carrying of a child in the womb for the period which elapses between its conception and birth; usually nine months of thirty days or thereabouts. This period is added, where gestation exists, to that which is allowed by the re against perpetuities. See In ventre.
Gestio pro hærede (behaviour as heir, &c.), conduct by which the heir renders himself liable for his ancestor's debts, as by taking possession of title-deeds, receiving rents, &c.

Gewrite, writings, deeds, or charters.

Gibbet. The practice of exposing the bodies of malefactors on gibbets was abolished by 4 & 5 Wm. IV. c. 36.

Gift, a transfer of property, especially one which is gratuitous; hence a deed of gift. (2) The right or power to give, hence to lie in gift. (3) A grant of land in tail. To give was the proper word of grant in feoffments.

Gild, or Guild, a society. (2) A contribution or tax.

Gipsy. See Vagrant.

Gisement. See Agistment.

Gist of action, the cause for which an action lies; the ground and foundation of a suit.

Glanville, the author of a book entitled Tractatus de Legibus et Consuetudinibus Regni Angliae, which was probably the first of the kind and written about 1181.

Glass-men, vagrants.

Glebæ ascriptitihi (assigned to the land), villein-socmen who could not be removed from the land while they did the service due.

Glebe, the land possessed as a part of the revenue of an ecclesiastical benefice.

Gloucester, Statute of, 6 Edw. I. c. 1, by which a plaintiff recovering damages was first given the right to costs.

Gloves. When there is no prisoner to be tried at an assize, the sheriff presents the judge with a pair of white gloves. Glove-silver was money similarly given in former times.

God-penny, earnest money given to a servant on hiring.

God's acre, a churchyard.

Going through the Bar, the Judge of a Court demanding of every member of the bar, in order of seniority, if he has anything to move.

Good Behaviour, Security for, is given by a man being bound with one or more sureties to pay a certain sum to the Crown unless he is of good abearance or behaviour for a stated time.

Good consideration, as distinguished from valuable consideration is one founded on motives of generosity, prudence, and natural duty, such as "natural love and affection."

Good jury, one of which the members are selected from the list of special jurors.

Goods and Chattels, the general denomination of things
personal, as distinguished from things real, lands, tenements, and hereditaments. See Chattel.

Goodwill, the advantage or benefit which is acquired by a business, beyond the mere value of the capital or stock employed therein, in consequence of its acquiring a body of regular customers and a general reputation. It follows that there can be no goodwill of a business which depends entirely on the skill of the person conducting it. The goodwill of a business is the subject of sale, and is personal estate.

Goole, a breach in a sea wall or bank.

Gore, a narrow slip of land.

Gote, a ditch or sluice.

Grace, a faculty, licence, or dispensation. (2) A free pardon by act of parliament.

Grace, Days of, time of indulgence, usually three days, granted to an acceptor for the payment of his bill of exchange. It was originally a gratuitous favour (hence the name), but custom has rendered it a legal right. See 45 & 46 Vict. c. 61, s. 14.

Graffer, a notary, or scrivener.

Grammatica falsa non vitiat chartam.—(False grammar does not vitiate a deed.)

Grand Assize, a peculiar kind of trial by jury introduced temp. Henry II., giving the alternative of trial by battle.

Grand Cape. See Cape.

Grand Costumier of Normandy, a book containing the ducal customs of Normandy, probably compiled since 1100.

Grand jury, an inquisition composed of not less than twelve nor more than twenty-three freeholders of a county, returned by the sheriff to every session of the peace, and every commission of oyer and terminer, and of general gaol delivery, whose duty it is, on hearing the evidence for the prosecution only in each bill of indictment, to decide whether a sufficient case is made out on which to send the accused for trial by the common jury. See Ignoramus, True Bill.

Grand larceny, stealing to above the value of 12d. The distinction between grand and petty larceny was abolished in 1827.

Grand serjeanty, a tenure by personal services of an honourable nature.

Grant, a general word signifying the transfer of property. Before 1845 it was especially used for the transfer of estates in expectancy and the like, of which livery of seisin could not be made; but by 8 & 9 Vict. c. 106, s. 2, it was enacted that for the future corporeal hereditaments should lie in (i.e., be the subject
of grant as well as livery; so that "grant" is now the proper word to use in all conveyances of freeholds. The grantor is he who transfers to the grantee. See Uses. (2) A licence, right, or authority conferred; e.g., grant of a patent, of probate, of administration. See those titles.

Grantz, grandees, nobles.

Gratuitous, made without consideration.

Great charter, Magna Charta (q. v.).

Great seal, the emblem of sovereignty, introduced by Edward the Confessor; used for all public acts of state.

Great Tithes. See Tithe.

Gree, satisfaction for an offence committed or injury done.

Green-wax, estreats delivered to a sheriff out of the Exchequer under the seal of the Court. Abolished.

Gregorian Epoch, the time from which the Gregorian calendar or computation dates, i.e. from the year 1582.

Gretna Green Marriage, one celebrated at Gretna, near Dumfries, in Scotland, according to the Scotch law, per verba de presenti. Since 1856 no marriage so constituted is valid unless one of the parties has lived in Scotland for twenty-one days next preceding such marriage. See Marriage.

Grimgribber, technical jargon.

Gross, entire. A thing or right is said to exist in gross when it is not appendant or appurtenant. See those titles, Collateral.

Ground-annual (Sc.), ground-rent, feu-duty.

Ground-rent, that which is paid by a person for land which he has taken on lease and covenanted to build on.

Growing crops. See Away-going, Emblements.

Guarantee, he to whom a guaranty is made by a guarantor.

Guaranty, or Guarantee, a promise to a person to be answerable for the payment of a debt or the performance of a duty by another, in case he should fail to perform his engagement. An offer to guarantee until it be accepted is not binding. See Frauds, Statute of, and Tenterden's (Lord) Act. A continuing guarantee is one which continues in force until revoked by the guarantor.

Guardian, one who has the control or management of the person, or property, or both, of another, who is incapable of acting on his own behalf, e.g., an infant, or a lunatic.

In modern times, guardians of infants may be said to be of three kinds:—(a) Testamentary, or by statute (12 Car. II., c. 24); (b) Customary; (c) Judicial, or by appointment of Chancery. (See Ward.) Guardians by election of the infant arise under the common law; but this form of guardianship, like guardian-
ship in chivalry, in socage, &c., is practically obsolete. In all the above except (c) the appointment is only made after the death of the infant's father, if not of the mother also; but where an infant has property, the father (or mother) is its guardian by nature; the Court also sometimes appoints a guardian during the parent's life, if he or she is unfit to take care of the infant. See Nurture. As to lunatics, see Committee. (2) Guardians ad litem are appointed by the Court to represent infants or lunatics in an action.

Guardians of the Poor, persons chosen by the ratepayers and owners of property in a parish or union to manage matters connected with the administration of the poor law. County justices are guardians ex officio.

Gule of August, the 1st of that month.

Gunpowder. A licence is required to manufacture gunpowder. See 38 Vict. c. 17.

H.

Habeas corpus, the generic name for a writ commanding an officer who has a person in custody to "have" or bring him before the Court. The Habeas Corpus Act, 31 Car. II. c. 2, originally provided the writ ad subjiciendum, which is the most important of all the writs of this denomination, and the only one which continues to be much used since the abolition of arrest on mesne process (q. v.), and of imprisonment for debt. The effect of that Act was to make the grant of a habeas corpus compulsory (except where by special Act of Parliament the habeas corpus is, as it is said, suspended) in all cases where a person is imprisoned without legal cause assigned in the warrant of committal.

Habeas corpus cum causa, or ad faciendum et recipiendum, issues when a person is sued in some inferior jurisdiction, and is desirous to remove the action into the superior court. It commands the inferior judge to produce the body of the defendant, together with the day and cause of his caption and detainer, to do and receive whatever the superior court shall think fit.

Habeas corpus ad prosequendum, issued to remove a prisoner, in order that he might be tried in the proper jurisdiction.

Habeas corpus ad subjiciendum. This, the most celebrated prerogative writ in the English law, is the usual remedy for a person deprived of his liberty. It is addressed to him who
detains another in custody, and commands him to produce the body of the person in custody, with the day and cause of his caption and detention, and to do, submit to, and receive whatever the judge or court shall think fit.

**Habeas corpus ad testificandum**, issued to bring a witness into court, when he was in custody at the time of a trial.

**Habendum** ("To have and to hold"), that part of a deed which determines the quantity of interest conveyed. See Deed.

**Habere facias possessionem** (cause to have possession), a writ that issued for a successful plaintiff in ejectment, to put him in possession of the premises recovered. See Writ.

**Habere facias seizinam** (cause to have possession), an older writ to the same effect as the last.

**Habere facias visum** (cause to have view), a writ that lay in divers real actions, where a view was required to be taken of the lands in controversy.

**Habit and repute.** By the law of Scotland marriage may be established by habit and repute where the parties cohabit and are at the same time held and reputed as man and wife.

**Habitatio** (Roman law), the right of using a house as a dwelling-house only. It differed from a jus utendi, as it could not be extinguished by non-user.

**Habitual Criminals,** see Prevention of crime.

**Habitual Drunkards,** see Drunkenness.

**Hærede abducto,—rapto,—deliberando,** writes which formerly lay for the lord, or other person having by right the wardship of a tenant under age, to recover the person of the ward.

**Hæredes proximi** (Roman law), heirs begotten; children.

**Hæredes remotiores** (Roman law), heirs not begotten, as grandchildren, &c., descending in a direct line in infinitum.

**Hæreditas jacens** (an inheritance that is not taken up). An estate in Scotland is so called when, after the ancestor's death, no title to it has been made by his heir.

**Hæreditas nunquam ascendit.**—(Inheritance never ascends.) This maxim of the feudal law, which went on the assumption that every estate must have descended through the direct line to the last holder, was exploded by the Act regulating the law of inheritance, 3 & 4 Wm. IV. c. 106, s. 6.

**Hæres factus** (Roman law), an heir appointed by will.

**Hæres natus** (Roman law), an heir by descent.

**Hæretico comburendo,** a writ (abolished 29 Car. II.) against a heretic who, after abjuring his heresy, relapsed into it again; for which the punishment was burning at the stake.

**Half-blood,** one born of the same mother or father as
another. By 3 & 4 Wm. IV. c. 106, the half-blood now inherit with
the whole blood, i.e. those born of the same mother and father.

Hallmass, the 1st of November. See Candlemas.

Hallmote, or Hallimote, a court among the Saxons answering to our court-baron. (2) An old name for the court held by each of the city companies in London.

Ham, Hame, a house; hence hamesoken, hamfare, breach of peace in a house.

Hanaper-office, an office belonging to the common law jurisdiction of the Court of Chancery, so called because all writs relating to the business of a subject, and their returns, were formerly kept there in a hamper, in hanaperio. The business of this office, which included the taking of an account of all patents, grants, &c., which passed the Great Seal, was transferred in 1652 to the Clerk of the Crown. See Crown Office in Chancery.

Hand-borrow, a surety, a pledge by taking the hand.

Hand-habend, a thief caught in the very act, having the thing stolen in his hand.

Hand-sale, a custom among the northern nations of shaking hands to bind a bargain or contract.

Handsel, earnest-money.

Handwriting, A person's, may be proved (a) by one who saw it written; (b) by one who has seen him write other documents (called presumptio ex visu scriptionis); (c) by one who knows his handwriting by correspondence, &c. (called presumptio ex scriptis olim visis); (d) by an expert (called presumptio ex scripto nunc viso).

Hare, a beast of warren. See Game, Close month.

Harriot, see Heriot.

Hasp and staple, the old form of the entry of an heir into premises held by burgage tenure in Scotland.

Hat-money, primage (q.r.).

Haver (Sc.), the holder of a document, called on to produce it in court.

He who seeks equity must do equity. He who comes into equity must come with clean hands: (i.e. must be free from all taint of fraud).

Hearing, the trial of a suit, usually on motion for judgment.

Hearsay evidence, or second-hand, is when a person makes a statement on the authority of another. It is usually inadmissible, but exception is made (inter alia) in questions of pedigree, custom, dying declarations, and those made against the interest of the declarant.

Hearth-money, see Fumage.
Hedge-bote, Hay-bote, see Bote.

Hegira, the epoch or account of time used by the Arabians and the Turks, who begin their computation from the day that Mahomet was compelled to escape from Mecca, which happened on Friday, July 16, A.D. 622, under the reign of the Emperor Heraclius. The years of the Hegira consist of only 354 days.

Heir, at law, a person who succeeds by descent to an estate of inheritance in land, or would have succeeded if his ancestor had died intestate.

Heir apparent. He whose right of inheritance is indefeasible, provided he outlive the ancestor: as the eldest son, who must by the course of the common law be heir to his father on his death. See Nemo est.

Heir presumptive. He who, if the ancestor should die immediately, would be his heir, but whose right of inheritance may be defeated by some nearer heir being born.

Heirs may also be sub-divided into (a) heirs by the common law (as modified by 3 & 4 Wm. IV. c. 106), called heirs general; (b) customary heirs (see Gavelkind, Borough-English); (c) heirs special, i.e. according to the form of the gift, as in the case of tail male (q.v.). When two or more persons inherit together, they are called co-heirs or co-heiresses. See Relationship, Expectant Heir, Coparcenary.

(2) One who is made an heir by will, &c. See Hæres factus.

(3) The ultimate heir, or ultimus hæres, is he to whom lands come by escheat or forfeiture, for want of proper heirs, or on account of treason or felony. He is either the lord of the manor or the Crown. See Forfeiture.

(4) In the Scotch law, as in common parlance, "heir" has a more extended significance, comprehending not only those who succeed to lands, but successors to personal property also.

Heirdom, succession by inheritance.

Heirloom, personal chattels which go by special custom to the heir or devisee, together with the inheritance, instead of going to the executor. Such are pictures, plate, and jewels. See 45 & 46 Vict. c. 38, s. 37.

Heirship moveables (Sc.), those things which the law withholds from the executors and next of kin, and gives to the heir, that he may not succeed to a house and lands completely dismantled. They consist of the best of certain things; e.g. furniture and farming stock; but do not include fungibles. See Fungibilia.

Heralds' College, an ancient royal corporation, established in 1483, which is empowered to make grants of arms and to permit change of names. See Kings-at-arms.
Herbage, see Venture.

Hereditaments, every kind of property that can be inherited. They are (a) corporeal, which "lie in livery," e.g. lands and houses; (b) incorporeal, which lie only "in grant," e.g. reversions, advowsons, and tithes. They are also (a) real, i.e. lands; (b) personal, i.e. which are not connected with lands; e.g. an annuity to a man and his heirs; or (c) mixed. An entire is opposed to a several hereditament, the parts of which are disconnected.

Heresy, a denial, not of Christianity, but of one or more of its essential doctrines.

Heriot (Scotch Hereteld), originally a tribute to the lord consisting of the horse or habiliments of a deceased tenant: this was in later times commuted for a money payment, or the tenant's best beast (averium).

(1.) Heriot service is an express reservation by the lord in an original grant of freehold made prior to the statute Quia Emptores. It consists of the right to the best beast of a tenant dying seised of an estate of inheritance, and lies in render as well as in prender (q.v.), being recoverable by distress as well as by seizure.

(2) Heriot Suit, is the right to some chattels (not only a beast) of a deceased tenant, reserved on a modern grant or lease of freehold. It lies only in render, and cannot therefore be seized.

(3) Heriot custom is due by virtue of immemorial usage of a manor, generally upon the death of the tenant, but sometimes on alienation, which latter is in the nature of a fine. It lies in prender only, therefore the lord cannot distrain for it, except, perhaps, by special custom. The extinction of heriots was attempted by 4 & 5 Vict. c. 35.

Heritable (Sc.), that which goes to the heir, as distinct from movables, which go to the executor. Thus heritable generally means connected with land; e.g. a bond, one to which is joined, for the creditors' further security, a conveyance of land.

Heritor, an owner in fee of corporeal heritable property.

Hermaphrodite, one who partakes of the physical peculiarities of both sexes. The legal status of such an one is usually decided by the circumstance of which sex predominates.

Hide of land, or plough land, that amount which can be ploughed in a year by one plough; that which can maintain a family. Hidage, a tax formerly paid on every hide.

High Bailiff, an officer attached to a County Court.

High Court of Admiralty, was a court of maritime jurisdiction, also called the Court of the Lord High Admiral. Its jurisdiction was by the Judicature Act, 1873, conferred on the
Probate, Divorce, and Admiralty Division of the High Court of Justice (q.r.). See Admiralty.

High Court of Justice. By the Judicature Act, 1873 (36 & 37 Vict. c. 66), the former Superior Courts of Law and Equity have been abolished, and in their place has been established a Supreme Court of Judicature, consisting of the Court of Appeal and the High Court of Justice. The latter contains three divisions (q.r.); and see Chancery, Queen’s Bench, and Probate.

High misdemeanour, see Misprision.

High Seas, that part of the sea which is more than three miles distant from the coast of a country; within the three miles the territorial jurisdiction extends, but no further.

High Steward, Court of the Lord, a tribunal instituted for the trial of peers indicted for treason or felony, or for misprision of either. The Lord High Steward is always a peer: he is appointed by commission under the Great Seal, and pro hac vice only.

High treason, see Treason. Petit or petty treason was abolished by 9 Geo. IV. c. 31.

High-water-mark, that part of the sea-shore to which the waters ordinarily reach when the tide is highest.

Highway rate, a tax for the maintenance and repair of highroads, chargeable upon the same property that is liable to the poor-rate.

Highways, public ways, either on land or water, which every subject of the kingdom has a right to use.

Hilary. See Sittings.

Hinde Palmer’s Act, 32 & 33 Vict. c. 46, abolished the priority of specialty over simple contract debts in the administration of the estate of a person dying after January 1st, 1870.

Hiring (locatio-conductio, Rom. law), a bailment for reward. It may be (a) of a thing for use (rei); (b) of work and labour (operis faciendi); (3) of services for taking care of a thing (custodiae); (4) of carriage of goods (operis mercium vehendarum). See Bailment.

Hobhouse’s Act, 1 & 2 Wm. IV., c. 60, relates to parish vestries.

Hold, of a tenant or grantee, to have in possession: (2) of a court or a judge, to enounce a legal opinion.

Holder, a payee or indorsee in possession of a bill of exchange, cheque, or promissory note.

Holder for value, is one who has given valuable consideration.

Holder in due course, one who holds a bill, &c., which is complete and regular on the face of it, subject to certain conditions prescribed by s. 29 of the Bill of Exchange Act, 1882, c. 61.
Holding, a term used to signify the tenure or nature of the right given by a superior to a grantee or tenant. (2) A farm.

Holding over, keeping possession of land by a lessee after the expiration of his term. See Double rent.

Holograph, a deed or writing, written entirely by the grantor himself, which, on account of the difficulty with which the forgery of such a document can be accomplished, is held by the Scotch law valid without witnesses.

Holy orders, in the English Church, are the orders of the clergy. A parson is legally described as “clerk in holy orders.”

Homage, the free tenants of a manor assembled in Court Baron (q. v.): (2) or fealty, the undertaking of a tenant in fee to his feudal lord to become his man “of life and limb.” The tenant thereby promised to assist the lord when required, and the lord to protect the tenant. Liege homage, was that to the sovereign, or lord paramount; Simple homage, that to the mesne lord. See Lord. Homage ancestral, was where the tenant and his ancestors had always held of the same lord or his ancestors. Homage was abolished by 12 Car. II. c. 24.

Homager, one who is bound to do homage.

Homagio respectuando, a writ to the escheator commanding him to deliver seisin of lands to the heir of the king’s tenant, notwithstanding his homage not done.

Homicide, destroying the life of a human being. It is (1) Justifiable, of three kinds:—

(a) Where the proper officer executes a criminal in strict conformity with his sentence.

(β) Where an officer of justice, or other person acting in his aid, in the legal exercise of a particular duty, kills a person who resists or prevents him from executing it.

(γ) Where it is committed in prevention of an atrocious crime attempted with violence.

2. Excusable, of two kinds:—

(a) Per infortunium, or by misadventure, as where a man doing a lawful act, without any intention of hurt, by accident kills another.

(β) Se defendendo, as where a man kills another upon a sudden encounter in defence of himself or his belongings.

3. Felonious, of two kinds:—

(a) Killing one’s self. (β) Killing another, which is either—

(a) Murder; or (β) Manslaughter; and this is either—(α) Voluntary, where a man doing an unlawful act, not amounting to felony, by accident kills another; or—(β) Involuntary, where,
upon a sudden quarrel, two persons fight, and one of them kills
the other; or where a man greatly provokes another, and the
other immediately kills him.

Homologation (Sc.), the express or implied ratification of a
deed that is null or voidable, or in some way defective.

Honor, a seigniory of several manors or lordships under a
lord paramount. (2) The land or district included therein.
Honor Courts, those held in the seigniory. (3) See Honour.

Honorarium, a recompense, a voluntary fee to one exercis-
ing a liberal profession, e.g. a barrister or physician.

Honorarium jus (Rom. law), the law of the pretors and the
dicta of the ediles. See Jus.

Honorary feuds, titles of nobility, descendible to the eldest
son, in exclusion of all the rest.

Honorary services. Those without emolument. (2) Those
incident to grand-serjeanty, and commonly annexed to some honor.

Honour. To honour a bill of exchange, or cheque (when
said of the drawee), means to pay it; a bill is honoured by the
acceptor when he accepts it. See Bill of Exchange, Payment.
(2) See Honor.

Hornigeld or Hornagium, payment for pasturing horned
cattle.

Horning, Letters of (Sc.), a warrant for charging persons
to pay or perform certain debts or duties; so called because
they were originally proclaimed by horn or trumpet.

Horse. The sale of a stolen horse in market overt (q. v.)
does not pass the property therein unless certain statutory
requirements are complied with to ensure publicity, and unless
also the owner fails to claim it within six months of the theft:
if he does so claim, and tenders the price, he can take it back.
See Wager.

Hostels, the Inns of Court (q. v.).

Hostile witness. If a witness shows himself, while under
examination in chief, "hostile," i.e., opposed to the party who
has called him, the latter or his counsel is allowed to cross-
examine him.

Hotchpot (collatio honorum), a clause usually inserted in
settlements or wills where property is given to members of a class,
c.g., children, in order to prevent those who have already received
a share of the fund by way of advancement or portion, from taking
any part of the undistributed fund, unless they bring into hotch-
pot, i.e., take into account, what they have already received.
The effect of this is that they take no further share until every
member of the class has had the same. They are not, however,
obliged to refund any part of what they have previously received. The Statute of Distributions (q. v.) contains a similar provision.

Houses of Correction, a species of gaol which does not fall under the sheriff's charge, but is governed by a keeper, wholly independent of that office. They were originally designed for the confinement of paupers and vagrants refusing to work.

Houses of Parliament, are (a), the House of Lords, consisting of 26 spiritual and 491 temporal peers, the former including the 2 English Archbishops, and 24 English Bishops; the Bishop of Sodor and Man, and the junior bishop for the time being, do not sit. (b) The House of Commons, 656 in number, of whom 493 are English, 60 Scotch, and 103 Irish. County members are technically called "knights of the shire," city members, "citizens," and borough members, "burgesses."

House-duty, a tax on inhabited houses imposed by 14 & 15 Vict. c. 36, in lieu of window-duty, which is abolished.

Hue and Cry, "the old common law process of pursuing with horn and voice felons and such as have dangerously wounded another." (2) A paper circulated by order of the Secretary of State for the Home Department, announcing the perpetration of an offence.

Hundred, a subdivision of a county, originally composed of a hundred freeholders' families.

Hundred Court, a larger court-baron (q. v.), being held for all the inhabitants of a particular hundred, instead of a manor.

Hundredors, men of a hundred; persons serving on juries, or fit to be empanelled thereon for trials, dwelling within the hundred where the cause of action arose.

Hurdle, a sledge used to draw traitors to execution.

Husband and wife, were by the common law considered one person, so that they could not convey to one another direct, though this was effected through the medium of a use or trust, or by will. See now the Married Women's Property Act, 1882, which has almost completely abolished the property distinction between a married and unmarried woman. By the criminal law a wife committing a felony in her husband's presence is in most cases excused, as she is presumed to have acted under compulsion; but this presumption may be rebutted. As a rule, a husband cannot give evidence against his wife in a criminal proceeding, nor she against him. One important exception, however, exists where he has committed an offence against her person. See Matrimonial Causes, Married Women's Property Act, 1882, s. 12, Infant, Equity, Jus Mariti.

Hush-money, a bribe to hinder information being given
Hustings, a local or county court, *e.g.*, in London, York, &c. The London Court of Hustings was an ancient Court of the King: its judicial functions no longer exist, having passed to the Mayor's Court and Sheriffs' Court; but it continues to elect the Mayor and Sheriffs. (2) A platform from which parliamentary candidates address the electors.

Hypothec, in the law of Scotland, is a security established by law in favour of a creditor over the property of his debtor; as in the case of a landlord for his rent. See 43 Vict. c. 12.

Hypothecation, a species of pledge in which the pledger retained possession of the thing pledged, as distinguished from *pignus*, where the possession was transferred to the pledgee. It is generally called a “charge”: (2) of a ship, is either Bottomry or Respondentia (*q. v.*).

I.

I. O. U., an admission of indebtedness in an amount named, signed by the debtor.

Ibidem, Ibid., Id. (*in the same place, volume, or case*).

Id certum est quod certum reddi potest.—(That is certain which can be reduced to a certainty). This maxim is of importance as bearing on the rule that a custom must be certain; thus a custom that a fine should amount to a year’s improved value of the land, though not in itself definite, can be ascertained, and is therefore, so far, good.

Idem est non esse et non apparere.—(Not to be and not to appear are the same, *i.e.*, in the law of evidence, where he on whom the onus of proving an affirmative fails in such proof, the contrary is presumed, though there be no evidence in support of that presumption.)

Idem per idem, an illustration, or proof, which adds nothing to the consideration of the question.

Idem sonans (*sounding alike*). The Courts will not set aside proceedings on account of the misspelling of names, provided the variance is so trifling as not to mislead, or the name as spelt be idem sonans, as Lawrance instead of Lawrence.

Identification, is the proof of the identity of a person or thing; *i.e.*, that he or it is *the* person or thing alleged. See Personation.

Ides. In the Roman calendar, the Ides of March, May, July, and October, were on the 15th of the month: of the remaining
months on the 13th. This method of reckoning is still retained in the Chancery of Rome, and in the calendar of the Breviary.

Idiocy, a species of insanity, differing from it chiefly in being congenital, i.e., commencing at birth. See Lunatic.

Ignoramus (we are ignorant). The word formerly written on a bill of indictment by a grand jury when they rejected it, on the ground that a sufficient primâ facie case was not made out: the indorsement now used is "not a true bill," or "not found;" or the jury are said to "ignore" the bill. See Grand jury.

Ignorantia facti excusat, ignorantia juris non excusat.—(Ignorance of the fact excuses; ignorance of the law excuses not; inasmuch as every one is held to be cognisant of it; quisque teneat seire.)

Ignoratio elenchi (in logic), ignorance of the proper reply to an adversary's argument.

Ignore, to throw out a bill of indictment. See Ignoramus.

Illegal, forbidden by the law. (2) Unlawful. (3) Void. Illegal conditions, those that are contrary to law, immoral, or repugnant to the nature of the transaction.

Illegitimate, see Bastard.

Illicit, unlawful.

Illusory appointment. Prior to 1 Wm. IV., c. 46, if the donee of a power of appointment (q.v.), who was not authorised to appoint exclusively to one or more members of a class, appointed a merely nominal sum to those of the class whom he wished to exclude, this exercise of the power was set aside as illusory, i.e., as intended to evade the wishes of the donor. This is no longer the law. See also 37 & 38 Vict. c. 37.

Immaterial averment, a statement which has no legal bearing on the point at issue. See Impertinence.

Immemorial usage, a practice which has existed from before the time of legal memory. See Memory.

Immoral contracts, those founded on an immoral consideration (contra bonos mores), e. g. illicit cohabitation. They are void (cf: ex turpi contractu non oritur actio), and cannot be enforced by any party thereto.

Impanel, or Impannel, the entering of the names of a jury in a parchment schedule, or panel (q.v.), by the sheriff.

Imparl. A party to a suit was said to obtain leave to imparl when the Court allowed him to discuss the case apart, either for the purpose of settling the litigation amicably, or of obtaining delay. In the obsolete process of barring an estate tail by suffering a common recovery (q.v.), the tenant in tail, on being vouched to warranty, craved leave to imparl or confer with the common
vouchee, and having thus got out of court did not reappear, and suffered judgment by default. See Vouchee.

Impeachment, an accusation brought by the House of Commons against a person for any great public offence; e.g. treason, or, in the case of a minister of the Crown, malversation. The House of Lords try the charge, the Lower House acting as prosecutors, which they do by means of members of their body appointed for the purpose, called managers. The charge is contained in Articles of Impeachment. (2) Impeachment of waste, see Absque; Waste.

Impedimentum dirimens, such an impediment to marriage as is not removed by the solemnization of the rite, but continues in force and makes the marriage null and void.

Imperative, see Directory.

Imperfect obligations, moral duties, such as charity, or gratitude, which cannot be enforced by law.

Imperfect trust, an executory trust. See Executory.

Impertinence, the statement in pleading of matter which is immaterial, prolix, or scandalous. The costs occasioned by such statement may by R. S. C. 1883, Ord. XIX., r. 27, be imposed by the Court on the party making it.

Implead, to sue, to prosecute.

Implication, a necessary or possible inference, of something not directly declared.

Implied trusts, arise generally from a construction placed by the Court on the facts, conduct, or situation of the parties. They may be divided into (a) those depending upon the presumed intent of the parties, as where property is delivered by one to another to be handed over to a third person, the receiver holds it upon an implied trust in favour of such third person; (b) those not depending upon such intention, but arising by operation of law; as in cases of fraud, or notice of an adverse equity.

Impossibility. If a man contract to do a thing which is absolutely and physically impossible, such contract will not bind him; but where the contract is to do a thing which, though possible at the time, becomes subsequently impossible, he will be liable for the breach. A legal impossibility, i.e. one created by rules of law, is no defence.

Impotence, or Impotency, physical inability of a man or woman to perform the act of sexual intercourse. It is ground for a decree of nullity of marriage if existing in either party at the time of the solemnization.

Impotentiam, Property propter, a qualified property, which may subsist in animals ferae naturae, on account of their
inability to escape, as where birds build in a person's trees, or rabbits make their burrows in his land, and have young there, he has a property in them till they can fly or run away, and then such property ceases.

**Impound**, to put cattle in a pound (*q.v.*). (2) To place a suspected document, &c. in the custody of the law, when produced at a trial, until a question affecting it is decided.

**Imprescriptable rights**, those which cannot be lost or gained by prescription (*q.v.*).

**Impression**, see *First*.

**Impressment**, the right which the Crown has (*a*) to force persons to serve in the army or navy; (*b*) to take property for the use of those services without the owner's consent. (*a*) has not been exercised of late years, though it still exists (see 5 & 6 Wm. IV. c. 24). As to (*b*), see the Army Discipline Act, 1879.

**Imprest-money**, money imprinted or advanced by the Crown for the purpose of being employed for its use.

**Imprimatur**, a licence to print or publish.

**Imprisiii**, adherents or accomplices.

**Imprisonment**, is of three kinds; (*a*) with, (*b*) without, hard labour (in either case solitary confinement may be added); (*c*) as a first-class misdemeanant. By 32 & 33 Vict. c. 62, imprisonment for debt is abolished, except in certain cases of default: it must not exceed one year, and operates as a satisfaction of the debt.

**Improbation** (*Sc.*), the setting aside of deeds on the ground of falsehood or forgery. See *Reduction*—*improbation*.

**Impropriation**, is where the revenues of a church-living belong to a layman, called an *impropriator*.

**Impure**, see *Personalty*.

*In æquili jure melior est conditio possidentis.*—(Where the rights are equal, the condition of the possessor is best.)

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

**In alternativis electio est debitoris.**—(In alternatives the debtor has the election.)

**In arbitrio judicis.**—(At the discretion of the judge.)

**In articulo mortis** (*at the point of death*).

**In auter, or autre, droit** (*in another's right*). See *Autre*.

**In camera**, see *Camera*.

**In capite**, tenure *in chief*, or direct from the Crown as feudal superior. In theory all fee simple land is so held.

**In chief**, see *Examination*.

**In consimili caso, consimile debet esse remedium.**—(In similar cases the remedy should be similar.)
In contractibus facile insunt quae sunt moris et consuetudinis.

—(In contracts matters of custom and general usage are implied.)

In conventionibus contrahentium voluntas potius quam verba spectari placuit.—(In agreements, the intentions of the parties should be regarded rather than the words actually used.) It must, however, be remembered that in most cases the intention can only be gathered from the words. See In dubio, &c.

In custodiâ legis (in the custody of the law). Goods are so called which, having been seized by the sheriff, or being otherwise in the custody of the law, are exempted from distress for rent.

In dubio hec legis constructio quam verba ostendunt.—(In a doubtful case, the construction which the words point out is the construction given by the law.

In esse, actually existing; as opposed to in posse, in a state of possible existence.

In extenso. From beginning to end, leaving out nothing.

In extremis. At the last gasp.

In favorem libertatis or vitae. In favour of liberty or life.

In fictione juris semper aequitas existit.—(In legal fictions there is always an inherent equity.) See Fiction.

In fieri, in course of accomplishment, or completion.

In formâ pauperis, a litigant who can swear that he is not worth 25l., excepting his wearing apparel and the subject-matter of the action, is entitled to be exempted from all court, counsel's and solicitor's fees. See R. S. C. 1883, Ord. XVI., rr. 22—31; Dives; Dispauper.

In gross, see Gross.

In invidiam. To excite prejudice.

In invitum. Against a person's will.

In limine. At the outset, preliminary.

In loco parentis. A person is said to be, towards an infant, when he assumes the moral obligation of providing for him, as a parent should; e.g., by maintaining and educating him. See Advancement.

In maleficiis voluntas spectatur non exitus.—(In criminal acts the intention is to be regarded, not the result.)

In medias res. To the heart of the matter.

In notis. In the notes.

In pais. Done without legal proceedings. See Conveyance; Estoppel.

In pari delicto, potior est conditio possidentis.—(Where both parties are equally in the wrong, the possessor, or defendant, has the better position.)

In pari materia. In an analogous case, or position.
In personam. See Action, Jus.
In posse. See In casu.
In propria persona. In 'proper' person. To appear in person and conduct his own case is the privilege of every litigant, except one suing in formâ pauperis.
In re. In the matter of. An expression used in intituling matters other than actions, in which there is no plaintiff or defendant.
In re communi potior est conditio prohibentis.—(In a partnership, the partner who forbids a change has the better right; i.e., where the voices are equally divided.)
In rem. See Action, Jus.
In societatis contractibus fides exuberet.—(The strictest good faith must be observed in partnership transactions.)
In solidó. In the whole, entirely: (applied to the performance of contracts.)
In statu quo. See Status quo.
In terrorem. For the purpose of intimidating. Conditions which the law will not enforce are so called.
In totdem verbis. In so many words.
In toto. In the whole, altogether.
In traditionibus chartarum non quod dictum sed quod factum est inspicitur.—(In the delivery of deeds, regard must be had not to what was said at the time but to what was done.) See Esrow.
In ventre (or Ventre) sa mère. In the mother's womb. An unborn child is said so to be; and for many purposes, e.g., acquiring vested rights in property, it is considered by the law as already born. See Gestation.
Inadequacy of consideration, does not now affect the validity of a contract, except so far as it affords presumption of fraud. See Consideration, Expectant.
Inalienable, not transferable.
Inbound Common, an unenclosed com:mon, marked out, however, by boundaries.
Incendiariam. See Arson.
Incest, carnal knowledge of persons within the Levitical degrees of kindred.
Inchoate, begun but not completed.
Incident, a thing depending upon, appertaining to, or following another that is more worthy. It may be separable, e.g., rent incident to a reversion, or inseparable. See Service. (2) In Scotch law, during the course of an action, interlocutory.
Incipitur (it is begun). This was the technical commencement of a declaration, demurrer-book, judgment, &c.
Incite, to stimulate or induce a person to commit a crime. This is a misdemeanor, whether the crime be committed or not.

Inclosure, is the act of freeing land from rights of common (q.v.), by vesting it in some person as absolute owner. This may be done (1) by approbement, intake, or encroachment; (2) by agreement; (3) by statutory authority. Inclosure Commissioners are a board appointed under Acts of Parliament to approve proposed enclosures. See Land Commissioners.

Inclusio unius est exclusio alterius.—(The inclusion of one is the exclusion of another.) See Expressio.

Incommodum non solvit argumentum.—(Inconvenience does not destroy an argument; e.g., it is no answer to an action for the removal of a nuisance that it would be more inconvenient for defendant to remove it than to pay damages for the injury it may cause. In will cases it is sometimes otherwise.)

Income-tax, an annual tax on the income or profits (calculated on an average of three or more years), arising from property, professions, trades, and offices. The amount is fixed yearly in the Customs and Inland Revenue Act.

Incompetency. See Disability, Capacity.

Inconsistency. See Repugnant, Departure.

Incontinency, unlawful indulgence of the sexual passion.

Inconvenience. See Incommodum, Interpretatio.

Incorporate (Incorporation), to declare that another document shall be taken as part of the document in which the declaration is made, as much as if it were set out at length therein. (2) To establish as a corporation (q.v.).

Incorporated Law Society, a society established for the purpose of protecting and regulating the rights and duties of solicitors. By 6 & 7 Vict. c. 73, s. 21, it was constituted registrar of solicitors.

Incorporeal chattels, incorporeal rights incident to chattels, e.g., patent rights and copyrights.

Incorporeal Hereditaments. See Hereditament.

Increase. See Affidavit, Extra Costs.

Encroachment. See Encroachment.

Incumbent, a clergyman in possession of an ecclesiastical benefice. See Induction.

Incumbrance, a claim, lien, or liability attached to property; as a mortgage or a registered judgment.

Indebitatus assumpsit, one of the common counts (q.v.), in actions for debt, whereby the plaintiff alleged a debt, and a subsequent promise (assumpsit) on the part of the debtor to pay, founded on the consideration of the debt.
Indecency. To commit any indecency, such as to expose the person in, or in view of, a public place, is a misdemeanor.

Indecimable, not titheable.

Indeferable, that cannot be made void. See Defeasible.

Indefinite payment, one which is not appropriated by the debtor on making it. See Appropriation.

Indemnify (Indemnification), to make good another's loss caused by an act or omission of a nature specified.

Indemnity, an undertaking, usually by deed, to indemnify another. (2) An Act of Indemnity used to be passed in every session for the relief of those who had neglected to take the necessary oaths of office, exceeded their official power, &c., but it is rendered unnecessary by 31 & 32 Vict. c. 72, s. 16.

Indenture, a deed between two or more parties; called indented because duplicates of every deed inter partes were once written on one skin, which was cut in half with a jagged edge: so when the duplicates were produced in Court they were seen to belong to one another by fitting into one another.

Indicavit (he has proclaimed), a writ of prohibition that lies for a patron of a church, whose clerk is sued in the spiritual court by another clerk for tithes of a certain value, to bring the action into a Court of Common Law.

Indicia, signs, marks.

Indicted (Indicttee), one charged in an indictment.

Indictment, a written accusation against one or more persons, of a crime of a public nature, preferred to and presented upon oath by a grand jury. It consists of the commencement or caption (q.v.), the statement of the persons, facts, &c., and the conclusion. See Grand jury, Ignoramus. In Scotch law, where a private person is a prosecutor, the charge must be brought in the form called Criminal letters, indictment being only brought by the Lord Advocate.

Indirect evidence, proof of collateral circumstances, from which a fact in controversy, not directly attested by witnesses or documents, may be inferred. See Evidence.

Indissum, that which is held in common; not partitioned.

Indorsor, the person to whom a bill of exchange, promissory note, bill of lading, &c., is assigned by indorsement, usually giving him a right to sue thereon.

Indorsement, anything written or printed upon the back of a deed or writing. A deed is often, for convenience sake, indorsed on the back of another, when it refers to the same subject matter. Indorsement of a bill, &c., may be either (a) in bank, which consists of the indorser's name only, or (b) special or in
full, when it specifies the indorsee, i.e., the person to whom the instrument is transferred. (a) Gives the bearer, (b) gives the indorsee, the right to demand payment. An indorsement *sans recours* (without recourse), is one whereby the indorser declares that he will not be liable if the instrument be dishonoured by any of the antecedent parties. See also *Without recourset*.

**Indorsement of Address.** By the R. S. C., 1883, Ord. IV., r. 1, it is provided (*inter alia*) that the solicitor of a plaintiff suing by a solicitor shall indorse upon every writ of summons the address of the plaintiff, and also his own name or firm and place of business.

**Indorsement of Claim.** By R. S. C., 1883, Ord. II., r. 1, every writ of summons in the High Court must be indorsed with a statement of the nature of the claim made, or of the relief or remedy required.

**Indorsement of service.** By R. S. C., 1883, Ord. IX., r. 15, every writ of summons must, within three days after service (*q.r.*), be indorsed with the date of service as therein mentioned.

**Inducement, an allegation of a motive.** (2) An incitement to a thing. (3) The introductory part of a pleading.

**Induction,** in Ecclesiastical law, is the giving a parson possession of a benefice to which he has been instituted; upon which he acquires a vested right to the profits of the living, and becomes complete incumbent. It is performed by virtue of a mandate addressed by the bishop to the archdeacon or other proper person (chancellor, dean, &c., according to the nature of the benefice). See *Precept*.

**Industrial and Provident Societies,** were originally of the nature of co-operative societies, and were established among the poorer classes for the purpose of getting their goods at wholesale prices. They are now given by law certain privileges, if registered, *e.g.*, limited liability of members, exemption from income-tax, and membership of minors. See 39 & 40 Vict. c. 45. No member may hold a larger share than £200 in the funds of the society.

**Industriam.** A qualified property in animals *fera naturae* may be acquired *per industriam,* i.e., by a man's reclaiming and making them tame by industry and education; or by so confining them within his own immediate power that they cannot escape and use their natural liberty. See *Impotentiam*.

**Infamy, *e.g.*, conviction for any infamous crime, was formerly ground to exclude a witness from giving evidence (See also *Challenge propter delictum*); it now affects merely the credibility, not the competency, of the witness. See *Dinman's Act.*
Infant, a person under twenty-one years of age. Infants are subjected by the law to various disabilities for their protection; thus they cannot bind themselves by contract except for necessaries (q.v.); they cannot alienate land (but see Gavelkind); nor make a will. By the Infant Relief Act, 1874, they are prevented from ratifying after attaining majority certain contracts made previously thereto by which a liability is imposed on them; and such contracts are by the same statute made absolutely void. Contracts, however, which are for their benefit, though voidable by them, bind the other party. Certain contracts which are incident to infancy are made binding on them by the Legislature; e.g., contracts of apprenticeship, executed marriage contracts, and representative acts as executor or trustee. See Guardian, Agr., Feoffment, Ward of Court, Marriage.

Infanticide, the killing of a child after it is born. The felonious destruction of the fetus in utero is more properly called foeticide, or criminal abortion.

Feoffment (Sc.), the act or instrument of feoffment (q.v.) or investiture, synonymous with sasine, the instrument of possession.

Inferior courts. They are the court-baron, the hundred-court, the borough civil court, and the county-court; and also all courts of a special jurisdiction. See 45 & 46 Vict. c. 31.

Infeudation, the placing in possession of a freehold estate.

(2) The granting of tithes to laymen.

Infidel, one who does not accept the Christian religion.

Infirmity, of a bill, note, &c., invalidity.

Informal, deficient in legal form.

Informant, the Attorney or Solicitor-General.

Information, communicated knowledge. (2) A formal accusation or complaint. (i) Civil: (a) information in chancery, which was matter of complaint made to the Court by the Attorney or Solicitor-General on behalf of the Crown, or some person or body under its special protection (e.g., lunatics or charities). For this procedure an action in the High Court is substituted by the Jud. Act. (b) A Crown information filed in the Court of Exchequer, which was a suit for recovering money or other chattels, or for obtaining satisfaction in damages for any wrong committed to the lands or other possessions of the Crown. (ii) As to criminal informations, see that title. Ex officio informations are opposed to those brought ex relatione. See Relator.

Informer, a person who prosecutes those who break any law or penal statute; usually for the purpose of obtaining part or the whole of the penalty recoverable under the statute. A common
informer is so called to distinguish him from persons specially
damaged by the act complained of.

Infortunium. See Homicide.

Infra, this word occurring by itself in a book refers the
reader to a subsequent part of the book, like post.

Infringement, breach or violation, applied to the breach of
a law, or violation of a right, as of copyright or patent right.

Ingenuitas (Roman law), liberty given to a slave by
manumission.

Ingress, Egress, and Regress. See Free entry, Emblements.

Ingressu, an abolished writ of entry. It was also called
præciπe quod reddat.

Ingrossing; writing the fair copy of an instrument for the
formal execution of it by the parties thereto. See Engross.

Inheritance, a perpetual or continuing right to an estate,
vested in a person and his heirs. (2) A hereditament. (3) That
which descends to the heir on death of the owner intestate. No
man can institute a new kind of inheritance not allowed by the
law. See Descent, Heir, Canons.

Inhibition. See Prohibition. (2) In Scotch law (a) a writ
whereby a person is inhibited from contracting any debt which
may become a burden on his heritable property; (b) a writ
prohibiting all persons from giving credit to a man’s wife.

Iniquum est aliquem rei sua esse judicem. In propriā causā
nemo judex sit.—(It is unjust for anyone to be judge in his own
case. No one should be a judge in his own cause.)

Initia testium (Sc.), the obsolete practice of examining
a witness, previous to taking his evidence, as to his disposition
towards the parties, &c. See Voir dire.

Initiate. See Courtesy.

Injunction. This was originally the Court of Chancery’s
discretionary process of preventive and remedial justice. Injunc-
tions are (a) preventive, restraining a person from doing some-
thing, or mandatory (commanding something to be done); (b)
provisional (interlocutory, or until the hearing of the action or
further order) or perpetual. See Interim order.

Injunctions may now be granted by all Divisions of the High
Court of Justice and by the Court of Appeal.

By the Judicature Act, 1873, s. 25, sub-s. 8, it is now provided
that, “a mandamus or an injunction may be granted or a receiver
appointed by an interlocutory Order of the Court in all cases in
which it shall appear to the Court to be just or convenient that
such order should be made; and any such order may be made
either unconditionally or upon such terms and conditions as the
court shall think just.” See R. S. C. 1883, Orders L., LIII.
Injuria, Injury, an infringement of a right. It is injuria sine damno where no damage ensues from the infringement, as when a stream already foul is still further polluted by the wrongful act of any one. "Equitable" injuries are those which prior to the Jud. Act could only be remedied in the Court of Chancery; e.g., equitable waste. See Damnum.

Injuria non excusat injuriam.—(One wrong does not justify another.)

Injuria non praevenientur.—(Injury is not presumed.)

Inlagary, or Inlagation, a restitution of an outlaw to the protection and benefit of the law.

Inland Bill, of exchange, a bill which on the face of it purports to be (a) both drawn and payable within the British Islands, or (b) drawn within the British Islands upon some person resident therein. Any other is a foreign bill; but unless the contrary appear on the face of it, the holder may treat it as an inland bill. See 45 & 46 Vict. c. 61, s. 4.

Inner House, the name given to the chambers in which the First and Second Divisions of the Court of Session in Scotland hold their sittings.

Innings, lands recovered from the sea; when rendered profitable they are termed gainage lands.

Innkeeper, one who keeps a house where travellers are furnished, for profit, with what they require; board, lodging, &c. He is bound to receive and entertain every traveller who presents himself for that purpose and offers to pay; provided he conducts himself properly and there is room in the house. An innkeeper has a lien on the goods of his guests for his charges, but may not detain their persons, or seize their clothing in actual wear. As to his liability for goods lost, see 26 & 27 Vict. c. 41; see also 41 Vict. c. 38.

Innocent conveyances were those, such as a covenant to stand seised or a bargain and sale, so called as opposed to tortious conveyances, because since they conveyed the actual possession by construction of law only, they did not confer a larger estate than the person conveying possessed; and therefore, if a greater interest was conveyed by them than a person had, they were only void pro tanto for the excess.

Innominate or unnamed contracts (Roman law), were those which failed to satisfy the definitions of the named contracts, e.g., sale (venditio), or letting (locatio), but which were enforced whenever there had been performance by one party. Such were exchange (permutatio) and compromise (transactio).

Innotescimus, an exemplification or copy of a charter of feoffment granted by the Crown.
Innovation, an exchange of one obligation for another, so as to make the second come in place of the first. See Nocation.

Inns of Chancery, were formerly institutions at which students prepared themselves to be admitted to the Inns of Court. They were nine: Clement's, Clifford's, Lyon's, Furnival's, Thavies', Symond's, New, Barnard's, and Staples' Inns. They now consist chiefly of solicitors, and possess corporate property but no public functions.

Inns of Court. There are four of them, exercising the right of admitting persons to practise at the bar:—the Inner Temple, the Middle Temple, Lincoln's Inn, and Gray's Inn.

Innuendo (by hinting), that part of the indictment or pleading in an action for libel which goes to explain a connection between what is said in the alleged libel, and certain persons or things not named or explicitly stated therein; whereby it is made to appear that the actual statement is libellous.

Inofficious testament, a will not in accordance with the testator's natural and moral duties. See Officious.

Inpeny and Outpeny, customary fines paid by tenants.

Inquest, judicial inquiry. (2) An inquiry made by a coroner (q.v.) and jury as to the death of a person who has been killed, or has died suddenly, or under suspicious circumstances, or in prison. It is held super visum corporis, i.e., after the jury has viewed the dead body, and the evidence is given on oath. (3) A jury.

Inquest of office, an inquiry made by a jury before the sheriff, coroner, escheator, or other officer of the Crown under writ sent to them for that purpose, or by commissioners specially appointed, concerning any matter that entitles the Crown to the possession of lands or chattels. It is of two kinds, (a) office of entitling, and (b) office of instruction.

Inquiline (Roman law), the hirer of a house.

Inquirendo, an authority given to some official person to institute an inquiry concerning the Crown's interests.

Inquiry. The subsidiary facts necessary for the working out of a decree are generally ascertained by inquiries in Judges' Chambers through the chief clerk, or by reference to a referee under the Jud. Act. See Inquisition.

Inquiry, Court of, is one appointed by the military or naval authorities to ascertain the propriety of resorting to ulterior proceedings against a person charged before it. The evidence taken before it is unsworn.

Inquiry, Writ of, is a judicial process addressed to the
sheriff of the county in which the venue is laid, stating the former proceedings in the action, and directing him to make inquiry, with the assistance of a jury, as to the damages suffered by the plaintiff, and to return the inquisition into court. By R. S. C. 1883, Ord. XXXVI. r. 57, an inquiry by an officer of the Court may in certain cases be substituted for a writ of inquiry.

*Inquisitio post mortem* (inquest after death), was an inquest of office made on the death of a tenant of the Crown, or in cases of forfeiture, escheat, and the like. Now disused.

**Inquisition,** an inquiry by a jury. (See *Inquest of Office.*)

(2) The document which records the result of the inquiry. A lunatic “so found by inquisition” is one formally so declared, after inquiry by a master of the court with or without a jury.

**Inrolment.** See *Enrolment.*

**Insanity.** See *Idiocy, Lunatic.*

**Inscriptio,** a written instrument of grant.

**Insimul computasset,** an obsolete action of account.

**Insinuatio** (Roman law), registration amongst the public records.

**Insolvency,** the state of one who has not property sufficient for the full payment of his debts. An insolvent, as distinguished from a bankrupt, was an insolvent who was not a trader; for previous to the Bankruptcy Act, 1869, only traders could be made bankrupt (*q.v.*). The estate of an insolvent remained liable for his debts, even after obtaining his discharge. The so-called Acts for the relief of insolvent debtors merely exempted the insolvent from imprisonment on giving up all his existing property to his creditors, which was called, from the Roman law, a *cessio bonorum.*

**Inspection,** *Trial by,* an obsolete form of trial; (2) *of documents,* the right which a party to an action has to examine and take copies of documents admitted by any other party thereto to be in his possession. See *Production, Discovery.* Documents which concern solely the title of the person in whose possession they are, in most cases are exempt from this right where he is a defendant. See R. S. C. 1883, Order XXXI. rr. 15—23. (3) As to *inspection of property,* see *View.* (4) *Deed of Inspection,* see *Inspectorship.*

**Inspector,** an overseer. There are Government inspectors of schools, factories, mines, and railways.

**Inspectorship.** *Deed of,* an instrument entered into between an insolvent debtor and his creditors, appointing inspectors to examine into his accounts, and oversee the winding up of his affairs in the interest of the creditors. See *Composition.*
InspeXimus, an exemplification or copy of the enrolment of a charter or of letters patent. See Constat.

Installation, the ceremony of inducting into, or investing with, any office or dignity.

Instalment, a portion of a debt, annuity, &c.

Instance Court, one of the two divisions of the Admiralty branch of the Probate, Divorce, and Admiralty Division of the High Court (q.r.). It has jurisdiction in cases of injuries to private rights committed at sea or intimately connected with maritime subjects. See Prize Court.

Instanter, immediately; at once.

Institorial power (Roman law), the charge given to a clerk (usually a slave), to manage a shop or store.

Institute, a commentary or treatise. (2) In Scotch law, the person, e.g., heir of entail, to whom an estate is first given in order of destination or limitation. (3) See Institution.

Institutes of Lord Coke, four volumes published in 1628, of which the first is a commentary on Judge Littelton’s treatise on tenures.

Institution, the ceremony of committing to a parson the care of souls in a parish. See Presentation, Induction. (2) A society for promoting any charitable or benevolent object. (3) In Roman law the appointment of an heir.

Instruct, to convey information as a client to a solicitor, or as a solicitor to a counsel. (2) To authorize one to appear as advocate.

Instrument, a formal legal writing; (2) of appeal, the document by which an appeal is brought in matrimonial causes.

Insufficiency. An answer in Chancery under the practice prior to the Judicature Act was said to be insufficient if it did not reply specifically to the specific charges in the bill. An affidavit in answer to interrogatories may now be objected to as insufficient if it does not in form comply with the requirements made.

Insuper, debiting a person in an account. See 43 & 44 Vict. c. 19, s. 112.

Insurance, (a) by way of indemnity, is the act of providing against a possible loss, by entering into a contract with one who is willing to give assurance, that is, to bind himself to make good such loss, should it occur. The instrument by which the contract is made is called a policy; the consideration paid to the insurer (who in marine policies is called an underwriter (q.r.)) and which is relatively small as compared with the sum insured, a premium; the person insuring, an insurer. Fire and marine insurances are by way of indemnity; i.e., only such sum is paid
by the insurer as is actually lost, and on making such payment he is entitled to stand in the place of the assured. See Loss. (b) not by way of indemnity, as in the case of life and accident insurances, is where the insurer undertakes, in consideration of a premium, to pay a certain sum to the assured on his death or suffering injury by an accident.

Insurance broker, one who effects insurance for others.

Intake, a temporary inclosure of the waste, made under a custom by a tenant of a manor.

Intendment, the true meaning: (2) of law, a presumption.

Intent, see Certainty.

Intentio, a count, or charge.

Intentio imponit nomen operi.—(The intention gives the name to the act.) A person is liable by the civil law for the consequences of his acts whether he intend them or not; but to constitute a crime, intention is essential.

Inter alia (amongst other things).

Intercedere (Roman law), to become bound for another’s debt.

Interesse termini, the right which a lessee acquires in land, before entry, by virtue of a demise at common law.

Interest, an estate or right in property. Interest suit, an action in the Probate Division to decide which of two or more persons is entitled to administer the estate of one deceased. (2) Money paid for the loan or use of another sum called the principal (q.v.). See Compound. As to Maritime interest, see Bottomry.

Interest rei publicae ut sit finis litium.—(It is for the interest of the State that there should be an end of litigation). See Limitation of Actions, Maintenance.

Interim order, one made in the meantime, and until something is done. See Injunction.

Interlineation, the insertion of any matter in a written instrument after it is engrossed or executed. A deed is invalidated by interlineation, unless a memorandum be made thereof at the time of the execution or attestation.

Interlocutory, an application, order, or judgment which is made during the course of an action, and has not the intention of finally determining it. See Injunction.

International law, is either public or private. The former regulates the conduct of independent States towards each other; the latter decides the tribunal before which private rights shall be determined; this being a question of domicile of the parties, locality of the property at stake, and so on.

Interplead, where a person, or a sheriff or other officer in discharge of his duty, holds property not his own but which two
or more persons claim, he can compel them to *interplead* and
determine who is the owner. See 1 & 2 Wm. IV., c. 58, R. S. C.
1883, Ord. LVII.

**Interpolate**, to insert words in a complete document.

*Interpretatio talis fienda est ut res magis valeat quam pereat.*
(Such an interpretation is to be adopted, that the thing may
rather stand than fall.) See *Benigne &c.*

*Interpretatio talis in ambiguis semper fienda est, ut evitetur
inconveniens et absurdum.*—(In doubtful matters, such an inter-
pretation is to be adopted that inconvenience and absurdity may
be avoided.)

**Interpretation clause**, a section of an act of parliament
which defines the meaning of certain words occurring frequently
in the other sections.

**Interrogatories**, questions in writing *exhibited* or addressed
on behalf of one party to an action to the other before the trial
thereof. The person interrogated must give his answers in
writing and upon oath. (2) Verbal questions put to a witness
before an examiner and answered on oath. See R. S. C. 1883,
Orders XXXI., XXXVII.

**Interruption**, of a right, whether by the non-exercise of it
by the person claiming, or by an obstruction of it by the
person against whom it is claimed, may have the effect of
destroying the right or of preventing its being acquired by pre-
scription. By the Prescription Act, however, no interruption
shall have this effect unless it is a quiesced in for the period of
one year after notice.

**Intervention.** A third person not originally a party to a
suit, but claiming an interest in the matter, may by the leave
of the Court intervene at any stage of the suit, in defence of his
own interest. The Queen’s Proctor intervenes in divorce actions
if he has reason to suspect collusion between the parties.

**Intestate**, one who has left no will. A person dies intestate
who either has made no will at all, or has made one not legally
valid; or has made one but revoked or cancelled it; or if there
is no one who can take under it.

**Intimidation**, whereby a person is sought to be prevented
from doing or compelled to do what he has a right to do or to
abstain from doing, is a misdemeanour. See 38 & 39 Vict.
c. 26, s. 7.

**Intra vires**, *within its powers*; the opposite to *ultra vires* (*q.v.*)

**Intromission** (*Sc.*), the assuming possession and manage-
ment of property belonging to another; if without legal author-
ity, it is called *vicious.*

**Intrusion**, is where a stranger enters on land on the deter-
mination of a particular estate, before the heir or person entitled
in reversion or remainder can enter. (2) Taking possession with-
out authority of a benefice which is not vacant.

Inure or Enure, to take effect.

Invention, Title by, see Patent, Copyright.

Investiture, the open delivery of seisin or possession under
the feudal law. See Livery. (2) One of the formalities by
which the election of a bishop is confirmed by the archbishop.

Investment. Trustees are by law authorized to invest trust
funds on real securities in any part of the United Kingdom, or
in Stock of the Bank of England, or in East India Stock, unless
expressly forbidden by the instrument creating the trust. See
22 & 23 Vict. c. 35, s. 32, and 23 & 24 Vict. c. 38, s. 12.

Invoice, a written account of the particulars of goods sent or
shipped to a purchaser, factor, &c., with the prices and other
charges annexed.

Invitum beneficium non datur.—(A benefit cannot be conferred
on one who is unwilling to receive it) that is to say, no one can
be compelled to accept a benefit.

Ipse dixit (he himself said it), a bare assertion resting on
the authority of an individual.

Ipso facto (by the very act itself), i.e., as the necessary con-
sequence of the act. (2) A censure of excommunication in the
Ecclesiastical Court, resulting immediately on condemnation.

Ira ad largum (to go at large; to be set at liberty).

Irish Courts, Judgments of the, are enforceable by the High
Court of Justice in England after a certificate of them has been
registered. See 31 & 32 Vict. c. 54, and 45 & 46 Vict. c. 31.

Irrebuttable, that cannot be rebutted. Presumptions of law
are so called when it is not permitted to bring evidence to dis-
prove them.

Irregular, done in the wrong manner, or without the proper
formalities; as distinguished from illegal.

Irremovability, the status of a pauper who cannot legally
be removed from the parish or union where he is in receipt of relief,
notwithstanding that he has not acquired a settlement there.

Irrepleivable, or Irrepleivable, that which cannot be b
replevied See Replevin.

Irrevocable, incapable of being revoked; powers of ap-
pointment may be exercised so as to be irrevocable: no will is
ever irrevocable.

Irritancy, the becoming void; forfeiture.

Irritant clause (Sc.), a provision by which certain prohibited
acts specified in a deed are, if committed, declared to be null and
void. A resolutäre clause is one determining a right on the com-
mission of any of such prohibited acts.

Ish and Entry, Clause of free (Sc.), exit and entry.

Issint (modern French ainsi), thus, so.

Issuable, that which raises an issue, see Non-issuable. (2)
That which is put in issue. (3) Issuable terms, Hilary and
Trinity, because in them issues were made up for the assizes.
Obsolete.

Issue, offspring, lineal descendants. (2) (In the plural), the
profits arising from lands, tenements, &c. (3) The point or points
in question, at the conclusion of the pleadings which one side
affirms, and the other denies. Issues may be of fact or of law.
To join issue, i.e., to accept the issues appearing on the pleadings.
is the technical phrase for closing the pleadings. To plead the
general issue, was formerly to deny in general terms the oppo-
ponent's allegations; in criminal practice it now means to plead
"not guilty," without more. To issue a writ, is for the proper
officer to deliver it, when properly sealed, &c., to the party
suing it out.

Ita utere tuo ut alienum non luedas.—(Use your own property
so as not to injure your neighbour.)

Item (also), a word used when an article is added to a list.
Iter (Roman law), a foot-way; a right of passage.
Itinerant, see Eyre.

J.

J. P., Justice of the Peace.

Jactitation, a false pretension to marriage. If a person
falsely asserts that he or she is married to another, the latter may
sue in the Probate, Divorce, and Admiralty Division for a decree
enjoining silence on the Jactitator.

Javelin-men, yeomen who escort the judge of assize.

Jedburgh Justice, also called Lydford law, a parody on
justice, punishment coming first and trial afterwards; Lynch law.

Judge and Warrant (Sc.), the warrant given by the Dean
of Guild to repair a ruinous building.

Jeofail (corrupted from J'ai failli, Fr. I have failed, an
expression used in the days of oral pleading), an oversight in plead-
ing or other law proceedings. The Statutes of Amendment and Jeo-
fail were passed at various times to prevent formal objections
being made after a certain stage of the proceedings.
Jervis's Acts, 11 & 12 Vict. cc. 42, 43 and 44, regulate (a) the commitment by justices of persons accused of indictable offences; (b) the summary conviction by them in the case of trivial offences; (c) the bringing of actions against justices.

Jetsam (jactus mercium, Roman law), things which having been cast overboard and sunk are thrown upon the shore. If the things float ashore they are called flotsam; if they are marked by a buoy attached to them, ligan. In each case if they are not claimed by the owner within a year and a day they become the property of the Crown.

Jettison, throwing overboard to lighten a ship. See General average.

Jews. A professing Jew cannot be Lord Chancellor, or exercise ecclesiastical patronage attached to his office; this, by 21 & 22 Vict. c. 49, s. 4, devolves on the Archbishop of Canterbury.

Jobber, see Stockjobber.

John Doe, see Ior.

Joinder, of causes of action, coupling two or more matters in the same suit or proceeding. Except in the case of an action for the recovery of land, all causes of action may be joined which accrue to the plaintiff in the same character. See R. S. C. 1883. Ord. XVIII. r. 2; (2) of parties. All parties may be joined as plaintiffs or defendants, in or against whom the right to any relief claimed is alleged to exist; (3) in pleading, see Issue.

Joint, ownership or liability, is opposed to several, and means that which is in more persons than one, and passes on the death of one to the survivor or survivors. See Joint-tenancy. An exception to the rule as to survivorship exists in the case of partners.

Joint Stock Company. By the Companies Act, 1862, s. 4, it was enacted that no company, association, or partnership, consisting of more than ten persons in the case of banking, and twenty in the case of any other business having for its object the acquisition of gain, should thereafter be formed unless it is registered under that Act, or is formed in pursuance of some other Act or of letters patent, or is a company working mines within the Stannaries. See also 30 & 31 Vict. c. 131. By these two Acts companies registered under them are given many of the privileges of corporations as to suing and being sued, and as to the enforcing of rights by or against their own members or shareholders. See Limited liability, Share.

Joint-tenancy, is created where real or personal property is, by the act of a party, passed by the same conveyance, devise, or matter of claim to two or more persons for the same estate, either simply, or by construction or operation of law jointly, with
a *jus accrescendi*, that is, a right of survivorship among them. Joint tenants are said to be seized *per me et per tout* (of part and of the whole), and their estate in land to be distinguished by four *unities*, viz., of possession, interest, title, and time. An exception as to the fourth exists in cases of wills, and under the Statute of Uses. Joint tenancy can be determined by alienation of his share by a joint tenant, or by partition, or by the whole passing to a single survivor. See *Unity*.

**Jointress**, or **Jointures**, one entitled to jointure.

**Jointure**, (originally, a joint estate limited to husband and wife), a provision made by a husband for his widow. *(a) Legal jointures*, which are now obsolete, were estates of freehold for the life of the widow at least. *(b) Equitable jointures* are rent charges or annuities which trustees of a will or settlement are directed to pay the widow for her life in lieu of dower.

*Judex non potest esse testis in propriâ causâ.*—(*A judge cannot be a witness in his own cause.*) See *Iniquum &r.*

**Judge**, one invested with authority to determine any cause or question in a court of justice. A judge of an inferior court is liable to an action if he exceeds his jurisdiction.

**Judge Advocate General**, the adviser of the Crown with reference to court-martial and other matters of military and naval law. At every court-martial there is an officiating judge advocate, who acts as deputy of the judge advocate general, and reports the proceedings to him.

**Judge Ordinary**, since the Judicature Act, is called the President of the Probate, Divorce, and Admiralty Division.

**Judge**, a Cheshire juryman.

**Judgment**, the decision of a Court; the expression by a judge of the reasons for his decision. It now includes a *decree* of the Chancery Division. Judgments are *(a)* final or interlocutory; *(b)* in *rem* or in *personam*; *(c)* on the merits or on default *(g. v.)*.

**Judgment-debtor**. One against whom a judgment ordering him to pay a sum of money stands unsatisfied. He may, by order of the Court or a judge, be orally examined by the judgment creditors as to debts owing to him by third parties, and be compelled to produce books and documents, with a view to attaching any debts due to him. See *Attachment*.

**Judgments Extension Acts**, 1868, 1882. By these Acts judgments recovered in any court in England, Scotland, or Ireland, may be enforced in either of the other two countries, upon registration of a certificate thereof in the latter country.

**Judicature Acts**, 1873, 1875, 36 & 37 Vict. c. 66, and 38 & 39
JUD 177 JUR

Vict. c. 77. They affect, in brief, firstly the organization of the courts (see Supreme Court); secondly, the substance of the law (see c.g. ss. 24 and 25 of the Act of 1875); and thirdly, procedure. One chief alteration introduced by them is that common law and equity are for the future to be concurrently administered, and that in every court equitable estates, titles, rights, duties, and liabilities are to be recognized and enforced.

Judices non tenetur exprimere causam sententiae sui.— (Judges are not bound to explain the reason of their sentence.)

Judices pedanei (Roman law), judges chosen by the litigants.

Judicia posteriora sunt in lege fortiora.— (The later decisions are the stronger in law.)

Judicial Committee of the Privy Council, a tribunal created by 3 & 4 Wm. IV. c. 41, for the disposal of appeals from colonial and ecclesiastical courts, from the Court of Admiralty, and in lunacy and patent cases.

Judicial separation, the proceeding in the Divorce Court which has taken the place of a divorce a mensa et thoro (q. v.). It may also be granted to either party on the ground of adultery, or cruelty, or desertion without cause for two years or more.

Judicial writs. See Writ.

Judicio est judicium secundum allegata et probata.— (It is the duty of a judge to decide according to facts alleged and proved.)

Judicio est jus dicere non dare.— (It is for the judge to administer, not to make laws.)

Judicium Dei (judgment of God), a term applied to the obsolete forms of trial by ordeal.

Jurat, the memorandum of the time, place, and person before whom an affidavit is sworn. (2) Officers in the nature of aldermen, sworn for the government of some corporations. The twelve assistants of the bailiff in Jersey are called jurats.

Jurata, the jury-clause in a Nisi Prius record. The entry jurata ponitur in respectu is abolished. C. L. P. Act, 1852, s. 104.

Juration, the act of swearing; the administration of an oath.

Juratores sunt judices facti.— (Jurors are the judges of fact.)

Juratory caution (Sc.), a description of security given in a "suspension" or "advocation" (forms of stay of execution pending review of the judgment) by the "complainer" (or appellant), where he is not in a position to offer any better.

Jure mariti.

Juri pro se introducto eviue licet renunciare.— (Every man may renounce the benefit of a stipulation inserted in his favour.)

Juri sanguinis nuncuam præscribitur.— (Relationship is not matter of prescription.)
Juridical, acting in the distribution of justice. Juridical days, those on which the laws are administered.

Juris et de jure (of law and from law). A conclusive presumption, which cannot be rebutted, is so called.

Juris utrum, was an action by an incumbent to recover possession of land belonging to his living, which his predecessor had aliened.

Jurisconsulti, or Jurisprudentes (Roman law), men who studied and expounded the forms and principles of law.

Jurisdiction, the power of a Court to entertain and decide on any judicial proceeding. The auxiliary or ancillary jurisdiction of the Court of Chancery has been abolished by the Judicature Acts, which give all the Courts the same powers in this respect. (2) The district over which the power of the Court extends. An exempt jurisdiction is where the Crown grants to some city or district that its inhabitants shall be sued there and nowhere else.

Jurisinceptor (Roman law), a student of the law.

Jurisprudence, the science of law. (2) A body of law.

Jurist, a civilian, one versed in Roman law.

Jurors' Book, a list of persons qualified to serve on juries.

Jury, a body of men (see also Jury of Matrons), sworn to consider and deliver a true verdict upon evidence submitted to them in a judicial proceeding. They are called jury-men or jurors. In civil causes a jury may be common or special; the latter being of a higher social position, and entitled to a guinea for each cause they try; they are only certified for in cases of peculiar difficulty or importance. In criminal causes there are always a grand and a petty (petit) or ordinary jury, the functions of the former being merely preliminary (see Grand Jury). A jury generally consists of 12, but a County Court jury consists of 5, and a grand and a coroner's jury, of any number over 11. In the two latter cases only unanimity is not required in their verdict. Until 1870, an alien was entitled to be tried by a jury de mediate lingua; i.e., one half of which were aliens. This privilege is abolished. See Panel, Challenge, Tales, Inquiry (Writ of), Inquest, Elegit, Jury of Matrons, Strike.

Jury-box, the place in Court where the jury sit.

Jury of Matrons. Women are impanelled as a jury in two cases only: (1) upon a writ de ventre inspiciendo (see Ventre): (2) where a female prisoner is condemned to be executed, and pleads pregnancy, as a ground to postpone the completion of the sentence until after her confinement.

Jury process, the writ for the summoning of a jury.

Jus, law, right, equity, authority.
All law (jus) is distributed into two parts—Jus Gentium (q. v.),
the law of nations, and Jus Civile, the civil law, i.e., the whole
body of law peculiar to any state.

The Jus Civile of the Romans was divided into two parts—Jus
Civile in the narrower sense; and Jus Pontificium, or the law of
religion. This opposition was expressed by the words Jus and
Ius. The terms Jus Scriptum and Jus non Scriptum, i.e., the
written and unwritten law, which corresponded roughly with our
“statute” and “case” law, comprehended the whole of the Jus
Civile. The Jus praetorium or honorarium consisted of edicts
published by each pretor on entering his year of office, by which
a kind of equity was introduced into the Roman civil law from
the codes of other nations.

Jus accrescendi inter mercatores locum non habet, pro beneficio
commerci.—(The right of survivorship does not exist among
merchants, for the benefit of commerce.) See also Joint.

Jus accrescendi praefertur oneribus et ultimâ voluntati.—(The
right of survivorship prevails against any attempt by a joint
tenant to incumber or devise his interest.) See Joint tenancy.
Thus there is no dower or curtesy of a joint estate.

Jus ad rem, an inchoate and imperfect right; such as a
parson promoted to a living acquires by nomination and institu-
tion without induction.

Jus Civile, the interpretation of the laws of the Twelve
Tables. (2) The Roman or civil law. See Jus.

Jus civilis, the freedom of the city of Rome.

Jus deliberandi, the right which an heir has in Scotch law,
of deliberating for a certain time whether he will take up
representation to his predecessor. See Annuus deliberandi.

Jus disponendi, the right of disposing of property.

Jus ex injuriâ non oritur.—(A right cannot arise out of
wrong-doing.)

Jus gentium, the law of nations, was used (a) in its general
sense, as representing the united wisdom of the lawgivers of all
nations, in which sense it corresponds to the lex naturae, or law
of nature; (b) in a restricted sense, as applied to the particular
codes of nations with whom the Romans were brought into
contact.

Jus honorarium. See Jus.

Jus imaginis (Roman law), the right of using statues, &c.,
of ancestors; resembling somewhat the modern right of bearing
a coat of arms.

Jus in personam, a right against another person to oblige
him to do or not to do something.
Jus in re, a complete and full right to a thing, to the exclusion of all other men.

Jus liberorum (Roman law), a privilege granted to such persons in ancient Rome as had three children, by which they were exempted from all troublesome offices. (2) Otherwise called jus trium liberorum, the privilege which free-born women who had borne three children (four in the case of freed women) had of succeeding to the property of their children. This distinction was abolished by Justinian.

Jus mariti, the right to his wife's personal estate which a husband acquired previous to the Married Women's Property Act, 1882, by virtue of the marriage. A husband is entitled to all personal estate which belongs absolutely to his wife at her death, whether for her separate use or not, which she has not effectually disposed of by will. In the case of her choses in action not reduced into possession by him before her death, he or his representative becomes entitled to them on taking out administration to her. See Husband and wife.

Jus patronatus, a right of advowson (q. v.). (2) A commission to inquire who is the rightful patron of a church.

Jus postlimini, the right in virtue of which persons and things taken by an enemy are restored to their former state on their coming again into the power of the nation to which they belonged, persons being re-established in their former rights, and things being restored to the original owner.

Jus prætorium. See Jus.

Jus precarium, a right depending on request, and which cannot be enforced at law.

Jus privatum, the civil or municipal law of Rome.

Jus publicum privatorum pactis mutari non potest.—(A public right cannot be altered by the agreements of private persons.)

Jus relictæ, the right of a widow in her deceased husband's personality. See Distributions, Legitim.

Jus tertii, the right of a third person. A person is said to set up the jus tertii when, being primâ facie liable to restore certain property to A, he alleges a paramount title in B. An agent may not set up jus tertii against his principal, nor may a wrong-doer as a general rule. (2) In Scotch law, to allege that a plea is jus tertii is equivalent to saying that the person making the plea is stopped from doing so, though in the mouth of a third person it may be perfectly good.

Justice. Since the Judicature Act all the judges of the High Court appointed since the Act, with the exception of the Lord Chancellor, the Lord Chief Justice of the Queen's Bench Division,
and the Master of the Rolls, are called justices. The word is also applied to petty magistrates who are called justices of the peace (J.P.). The commission by which these are appointed beginning “Quorum aliquem” (of whom one), they are also styled Justices of the Quorum. They act gratuitously. Their office subsists during the Crown’s pleasure. Borough justices are appointed by the Crown in boroughs having a separate commission of the peace; their qualification is residential, not a property qualification as in the case of justices of the peace. See Jerris’ Acts; see also Lord Justice of Appeal.

Justiciar, Chief, or Justiciary, was the head of the justiciars, or capitalis justiciarius totius Angliae, and the principal minister of state. He was ex officio regent in the sovereign’s absence. The last was Philip Basset, temp. Hen. III.

Justiciars, law officers instituted by William the Conqueror to assist the sovereign in administering the law.

Justiciary, Court of, the supreme criminal court in Scotland, which can revise the sentences of all the inferior criminal courts.

Justicies, an obsolete writ directed to the sheriff, whereby he was enabled to hold plea of debt in his county court for sums exceeding the ordinary limit of 40s.

Justifiable, lawful. See Justification.

Justifiable homicide. See Homicide.

Justification, is showing a sufficient reason in court why the defendant did what he is called upon to answer: in an action of libel a defence of justification is a defence showing the libel to be true; this however is not a sufficient defence (in accordance with the saying “The greater the truth the greater the libel”) unless the publication of the alleged libel is shown to be for the public benefit, or on a privileged occasion: in an action of assault, showing the violence to have been necessary.

Justificator. See Compurgator.

Justify. Bail, or sureties, are said to justify when they swear that they are, after the payment of their debts, worth a sum specified, usually double the sum claimed in the action, and that they are householders or freeholders; thus satisfying the Court that the security offered is good and sufficient.

Juxta formam statuti (according to the form of the statute).
K.

K. B., King's Bench.

Kain (Sc.), poultry given as part of rent.

Keelage, money paid by ships remaining in a harbour.

Keeper of the Great Seal, Lord, a judicial officer who was occasionally appointed in lieu of the Lord Chancellor. By 5 Eliz. c. 13, they were declared to be the same office.

Keeper of the Privy Seal, now called Lord Privy Seal, a high officer of state, usually a Cabinet minister. Through his hands all charters, &c., pass before they reach the great seal.

Keeper of the Touch, the master of the assay in the Mint.

Keeping house, confining oneself within doors in order to defeat creditors; it is an act of bankruptcy (q. v.).

Keeping the peace, Security for, a recognizance or obligation to the Crown, whereby a person and his sureties are bound to pay a certain sum unless he appear in court on a day named, and meanwhile keep the peace, either generally or towards a person named.

Kenning to a terce (Sc.), the act of the sheriff in assigning dower to a widow.

Kentlage, ballast of a permanent kind; usually pigs of iron.

Kidnapping, the forcible abduction or stealing away of a man, woman, or child from their own country, and sending them into another. As to children, see 24 & 25 Vict. c. 100, s. 56.

Kin, or Kindred, relations by blood or consanguinity. They may be either (a) lineal or (b) collateral; (a) may be ascending, e.g., a father or grandfather; or descending, e.g., a son or grandson. (b) includes those of the same stock, but not descended from one another; e.g., a brother or nephew. In reckoning the degrees of kindred the rule of the Roman law is followed, and each generation is reckoned as a degree, both up to the common ancestor and downwards to the issue. The next of kin of a man is the person (or persons, if there are more than one of the same degree) most nearly related to him. If a man die intestate, his next of kin is entitled to take out administration (q. v.) to him. See Distributions, Representation.

King. See Sovereign.

King's Bench. See Queen's Bench.

King's Chambers, that portion of sea which is enclosed by an imaginary line from one headland to another. It is part of the territorial waters of the Crown.
Kings-at-arms, the chief heralds. In England they are Garter, Clarenceux, and Norroy; in Scotland, Lyon; in Ireland, Ulster.

Kleptomania, insanity in the form of an irresistible propensity to steal.

Knight, the lowest kind of dignity; knight bachelor is the ordinary form and the oldest, but ranks below the knights of special orders, e.g., the Bath. Knight of the Shire, see House.

Knight's fee, "that which goeth to the livelihood of a knight" land worth £20 per annum.

Knight-service, a feudal military tenure (q.v.) of the most honourable kind. Various forms of it were escuage, castellward, and grand serjeanty.

L.

L. S., Locus Sigilli, the place for the seal.

Laches, negligence, or unreasonable delay in pursuing a legal remedy, whereby a person forfeits his right. See Acquiescencet, Nullum tempus &c., Vigilantibus &c.

Lacuna (a ditch), a blank in writing.

Lada, purgation, acquittal. (2) A form of tenant's service.

(3) An inferior court of justice. (4) A water course.

Lady Day, 25th of March; one of the usual quarter days.

Læsæ majestatis, Crimen, high treason.

Lagan, or Ligan. See Jetsum.

Lambeth Degrees. The Archbishop of Canterbury can confer all the degrees that are taken at the universities, though without many of the privileges carried by the latter.

Lammas Day, 1st of August. See Candlemas.

Lammas lands, those over which there is a right of pasturage by persons other than the owners from about Lammas or reaping time until sowing time.

Lancaster. See Chancery, County Palatine.

Land, in its restricted sense means soil; but legally it includes everything on the soil, buildings, water, &c. See Cujus est solum &c., Aqua ordinat soli, Real estate.

Land, Recovery of. See Ejectment, Joinder.

Land Commissioners, the title given by the Settled Land Act, 1882, to those formerly styled "the Copyhold, Inclosure, and Tithe Commissioners."

Land Registries, Land Transfer. See Transfer of Land Acts.
Land Tax, a tax payable annually in respect of the beneficial ownership of land. It is redeemable under 38 Geo. III. c. 60.

Landed Estates Court (Ireland), is the successor of the Incumbered Estates Court, and was established by 21 & 22 Vict. c. 72. It gives an indefeasible title to the purchaser.

Landlocked. See Way of Necessity.

Landlord, he of whom lands or tenements are held by a tenant at a rent, recoverable by distress (q. r.).

Lands Clauses Consolidation Act, 8 & 9 Vict. c. 18, a public and general act regulating the taking of land by public bodies.

Land waiter, an officer of the custom-house.

Lapse. If a legatee or devisee die before a testator, the legacy or devise is said to lapse, and sinks as a rule into the residue. For exceptions see ss. 32 and 33 of the Wills Act, 1837. A benefice lapses if the patron does not present a clerk within six calendar months of its becoming void. (2) To cease.

Larceny, the unlawful taking and carrying away of things personal, without colour of right, with intent to deprive the rightful owner of the same. Simple larceny is that which is accompanied by aggravating circumstances. The distinction between grand and petty larceny (q. v.) was abolished in 1827. See Robbery, Embezlement.

Last Court, a court of the marshes of Kent.

Last heir, he to whom lands come by escheat for want of lawful heirs; that is, in some cases the lord of whom the lands were held, but in others the sovereign. See Bastard.

Last resort. A court from which there is no appeal is called the court of last resort.

Lata culpa dolo æquiparatur.—(Gross negligence is tantamount to fraud.)

Latent, hidden. See Ambiguity.

La titut (he lies hid), a writ of summons in personal actions at the Queen's Bench, founded on a fictitious concealment of himself by the defendant. Abolished by 2 Wm. IV. c. 39. See Queen's Bench.

Laudator (Roman law), an arbitrator.

Laudibus (de) Legum Angliæ. Sir John Fortescue, chief justice of the King's Bench in the reign of Henry VI., is said to have written this work on the principles of English law.

Law, an observed uniformity of action or sequence; e.g., "laws of nature." (2) A rule of action to which men are obliged to conform. The statutes are called the written law, as opposed to the unwritten law founded on precedents and custom. See Jus.
Law agent, a Scotch general term for a solicitor. See Writer to the Signet, Procurator.

Law burrows, Letters of (Sc.), correspond to the English "security to keep the peace." Contravention of law burrows, is any act whereby the undertaking to keep the peace is violated.

Law list, an authorized list of barristers, solicitors, and other legal practitioners, published yearly. As to solicitors and certified conveyancers, it is prima facie evidence of their being duly qualified.

Law merchant, that part of the law of England which governs mercantile transactions.

Law of Marque. See Letters of Marque.

Law of the staple, law administered in the Court of the mayor of the staple; the law merchant.

Law Reports. Reports published since 1865 by the "Incorporated Council of Law Reporting," of noteworthy judgments in the various Courts.

Lawday, a court leet, or view of frank-pledge (langhe).

Lawful. In a statute the phrase "it shall be lawful" is prima facie permissive only; but if it is used to effectuate a legal right, it is compulsory. See 5 App. Ca. 182.

Lawing of dogs, cutting their claws to prevent them running deer.

Laws of Oleron, a maritime code said to have been drawn up by Richard I. at the Isle of Oleron, on which the maritime law is largely founded.

Lay, or layman (one of the people); one not belonging to a particular profession; especially opposed to clerical.

Lay corporations, bodies politic; they are either (1) Civil, created for temporal purposes; or, (2) Eleemosynary, for charitable purposes.

Lay days (otherwise laying or lie days), those allowed by a charter-party for a ship to lie and load or unload. See Demurrage.

Lay impropriators, lay persons to whose use ecclesiastical benefices have been appropriated.

Le Boy (or La Reine) le vent (s'aviser). The form of the royal assent (or dissent) to public bills in Parliament.

Lead. A deed made previously to a fine and recovery declaring the trusts was said to lead the uses.

Leading case, one that has been so often followed as to establish definitely a principle of law.

Leading question, a question which suggests to a witness the answer which he is to make. It may only be asked in cross-examination.
Lease, sometimes also called Demise (demissio), is a conveyance of property for life, or years, or at will, by one who has a greater interest in the property. The person conveying is called the landlord, or lessor; the property remaining in him after conveyance is his reversion; the person to whom the conveyance is made is the tenant or lessee. The consideration is usually the payment of a rent. The operative words used to be “demise, lease, and to farm let.” Until the lessee accepts the term by entry he has only an interesse termini (q.r.) or interest in the term. Leases must be by deed, except leases at will, or for a term not exceeding three years. A lease is generally drawn in duplicate, one part (the “lease”) being executed by the lessor and kept by the lessee; the other part (the “counterpart”) executed by the lessee and kept by the lessor. See Rent, Underlease.

Lease and Release, a mode of conveyance operating under the Statute of Uses, which was superseded in 1841 by a simple release, and in 1845 by a grant under 8 & 9 Vict. c. 106. A lease for a year was made by way of bargain and sale, which under the Statute of Uses gave seisin without entry or enrolment, and then the vendor released his reversion to the purchaser by ordinary deed of grant.

Leasehold, land held under a lease. It is a chattel real (q. r.) and ranks as personality, except for the purposes of the Succession Duty Act, Locke King's Act, and 27 Eliz. c. 4. See Voluntary.

Leasing or leasing, gleaning. (2) Lying, slandering (Sc.).

Leave and License, a defence to an action in trespass, setting up the consent of the plaintiff to the trespass complained of.

Leeman's Acts. (1) 30 Vict. c. 29, relating to the sale of bank shares. (2) 35 & 36 Vict. c. 91, which authorises the application of the funds of municipal corporations, and other governing bodies, under certain conditions, towards promoting or opposing parliamentary and other proceedings for the benefit or protection of inhabitants.

Leet, Court. See Court Lect, Frank-pledge.

Legacy, a gift of personality by will, which, arising as it does from the mere bounty of the testator, is postponed to the claims of creditors. A legacy may be (a) specific, i.e., of a specified thing or part of the testator’s estate, as opposed to (b) general, which comes out of any part of his assets; (c) demonstrative, which is a general legacy directed to be paid out of a specified fund. (a) is adoomed, i.e., revoked, by the donor parting with the specific thing during his lifetime; (c) is not; as in this case it comes out of the general estate; and has this further
advantage that it is not subject to abatement, as are general legacies, if the assets are insufficient. Where a testator has bequeathed more than one legacy to the same person, the question arises whether he intended the second to be cumulative, i.e., in addition to the first, or only substitutinal. Legacy duty, is a tax paid on legacies, rising from one to ten per cent., according to the distance of relationship between the testator and the legatee.

Legal is opposed, (1) to illegal, (2) to equitable. The distinction between legal and equitable is, however, largely abolished in practice by the Judicature Acts. See Tender, Equity, Assets, Estate.

Legalize, to make lawful.
Legatee, one who has a legacy left to him.
Leges posteriores pries contrarias abrogant.—(Later laws abrogate prior contrary laws.)
Legis interpretatio legis vim obtinet.—(The interpretation of law obtains the force of law.)

Legitim, Legitime, or Bairn’s Part of Gear, (Sc.), the legal share (one-half or one-third, according to circumstances) of the father’s free moveable property due on his death to his children. By Scotch law a father can only dispose of part of his personal estate by will (one-third if he leaves a widow and children); this is called dead’s part. He can, however, during his lifetime, defeat the children’s right or legitim by converting his personality into land or by alienating it; or he may by antenuptial settlement make provision for them in lieu of legitim. See Forisfamilialion, Jus Relictae.

Legitimacy, lawful birth, i.e., of parents lawfully married.
Legitimation, the act of making legal or of giving the right of lawful birth; (2) per subsequens matrimonium. The legitimation of a bastard by the subsequent marriage of his parents. This right is not recognised in England and some of the United States of America. The domicile of the father determines what law should be applied to decide the status of the children.

Legitimi hæredes (Roman law), the agnati, because the inheritance was given to them by a law of the Twelve Tables.
Lemma, the heading of a bill of exchange.
Lenocinium (Sc.), the connivance of a husband in his wife’s adultery.
Leonina societas, a partnership in which one gets the lion’s share.
Lesion (Sc.), the degree of injury or duress sustained by a minor, or person of weak capacity, necessary to entitle him to
reduce or avoid a deed which he has been thereby induced to sign.

Lessee, Lessor. See Lease.
Let, hindrance, obstruction.

Letter, or power, of attorney, a writing authorizing another person, who, in such case, is called the attorney of the person appointing him, to do any lawful act in his stead. It is either general or special. A power of attorney is revoked by the death of the principal. See, however, the Conveyancing Act, 1881, s. 47. See also Execution.

Letter-claus, or Letters-close (literæ clausæ), so called in contradistinction to letters-patent, missives addressed by the Sovereign to particular persons for particular purposes, and sealed with the royal signet or privy seal.

Letter-missive. When a peer was made a defendant in the Court of Chancery, the Lord Chancellor sent a letter-missive to him, to request his appearance, together with a copy of the bill, petition, and order. (2.) See Congé d'Elire.

Letter of Credit, one written by a merchant or correspondent to another person requesting him to credit the bearer (with or without a limit as to amount). If it be not addressed to any particular person or persons it is called an open letter. If given in connection with circular notes it is called a letter of indication. Circular notes are drafts, usually for a sum named, given with the letter and requiring to be signed by the bearer.

Letter of license, an agreement between a debtor and his creditors, whereby they allowed him to carry on his business for a time free from arrest. See Inspectorship, Deed of, by which it has been superseded since imprisonment for debt was abolished.

Letters (Sc.), a decree or writ.
Letters-close. See Letter-claus.
Letters of Administration. See Administration, Kin.
Letters of Horning. See Horning.

Letters of Marque, commissions granted, usually in time of war, to private individuals, authorising them to fit out vessels for the purpose of capturing the goods or subjects of a hostile nation by way of reprisal for wrong done. By such letters the prizes are granted to the captors. See Reprisal, Privateering.

Letters of Request, a mode by which an ecclesiastical suit may be commenced in the Arches or Superior Court without having it first tried in the Consistory, Provincial, or Inferior Court.

Letters of Safe-conduct, a passport or protection granted by the Crown to a subject of a hostile power, exempting him
from seizure. Our ambassadors abroad now give passports or
licenses for the same purpose.

Letter-patent, or Letters overt, grants by the Crown of
privileges, franchises, &c., which are not sealed up but left patent
or open, with the great seal attached. See Patent.

Lettres de Cachet. See Cachet.

Levant et couchant (rising and lying down), cattle that
have been so long in the ground of another, that they have lain
down and risen to feed, supposed to be a day and a night. If
they are there by his negligence, they cannot be distrained by his
landlord, as against their true owner, until this period has
elapsed. (2.) Cattle which the produce of land over which there
is common of pasture will maintain during the winter.

Levari facias, a writ of execution (abolished by the Bank-
ruptcy Act, 1883, s. 146) by which the sheriff is directed to levy
a debt by sale of the debtor’s chattels, and out of the rents and
profits of his lands. See Sequestrari facias.

Levirate, the name of an ancient law, existing prior to the
time of Moses (Gen. xxviii. 8–12), by which, if a husband died
without issue, leaving a widow, the brother of the deceased, or
the nearest male relation, was bound to marry the widow, to
give to the first-born son the name of the deceased kinsman, to
insert his name in the genealogical register, and to deliver into
his possession the estate of the deceased.

Levitical degrees, degrees of kindred within which persons
are prohibited to marry. They are set forth in the eighteenth
chapter of Leviticus. See also 32 Henry VIII. c. 38.

Levy, to raise money or men.

Lewdness, licentiousness; if open, it is indictable.

Lex (Lat.), a law. Legem rogare, to move or propose; ferre,
to carry; seiscere, to approve (said of the popular assembly);
promulgare, to publish; abrogare, to repeal; habere, to be com-
petent to give evidence on oath.

Lex citius tolerare vult privatum damnum quam publicum
maliun.—(The law will more readily tolerate a private loss than
a public evil.)

Lex dilationes exhorret.—(The law always abhors delays.)

Lex domicili, the law of the country where a person has
his domicile (q. e.).

Lex fori, the law of the country where an action is brought.
This regulates the forms of procedure and the nature of the
remedy to be obtained.

Lex Hostilia de furtis, a Roman law which provided that
a prosecution for theft might be carried on without the owner’s-
intervention.
Lex judicat de rebus necessarié faciendis quasi re-ipsá factis.—
(The law judges of things which must necessarily be done, as if
actually done.)

Lex Julia majestatis, a law of Augustus Caesar against
treason to the state or Emperor.

Lex loci contractus, (the law of the country where the con-
tract was made.) Generally speaking this decides the validity of
the contract.

Lex loci delicti, the law of the country where a tort has
been committed. See Locus.

Lex loci rei sitae, (the law of the place where the thing is
situate); also called lex sitús. As a rule, lands and other im-
moveables are governed by the lex sitús.

Lex mercatoria, the mercantile law, or general body of
European usages in commercial matters.

Lex nil facit frustra; nil jubet frustra.—(The law does
nothing in vain; commands nothing in vain.)

Lex non cogit ad impossibiliam.—(The law forces not to
impossibilities.) See Impossibility.

Lex non curat de minimis.—(The law cares not about trifles.)

Lex non fuerit delicatorem votis.—(The law favours not the
wishes of the dainty.) In deciding whether an alleged nuisance
should be restrained by injunction, the Court considers whether
it is such as would materially inconvenience persons of ordinary,
not fastidious, habits.

Lex non scripta, the unwritten law (q. v.).

Lex ordinandi, the same as Lex Furi (q. v.).

Lex prospicit non respicit.—(The law looks forward, not
backward; i.e., statutes are not, as a rule, retrospective.)

Lex respicit aequitatem.—(The law pays regard to equity.)
See Judicature Acts.

Lex sacramentalis, purgation by oath.

Lex scripta, the written or statute law. See Law.

Lex spectat naturae ordinem.—(The law has regard to the
order and course of nature.)

Lex talionis, the law of retaliation.

Ley (Fr. loi), law. (2) The oath with compurgators. (3) A
meadow.

Ley gager, a wager of law. (2) One who commences a lawsuit.

Leze-majesty (Leææ majestatis crimen), an offence against
sovereign power; treason.

Liability, the condition of being subject to an obligation,
either (a) actual and ascertained, or (b) potential and un-
ascertained.
Libel, defamatory writing; any contumelious matter that tends (a) to degrade a man in the eyes of his neighbours or render him ridiculous, or to injure his property or business; (b) to produce evil consequences to society, as being, e.g., blasphemous, seditious, or immoral. It may be "published" by writing, effigy, picture, or the like. Both the author and the publisher are liable to be sued. See Justification. (2) In Ecclesiastical Courts, the plaintiff's pleadings in a civil action. (3) In Scotch Courts, (a) the plaintiff's pleadings; (b) an indictment.

Libellant, the suitor plaintiff who files a libel in an ecclesiastical case. Libellee, the defendant therein.

Libellus conventionis (Roman law), the statement of a plaintiff's claim in a petition presented to the magistrate, who directed an officer to deliver it to the defendant.

Liber assiserum, the book of assizes or pleas of the Crown, being part five of the "year-books" (q. v.).

Liber feudorum, a code of the feudal law, compiled by direction of the Emperor Frederick Barbarossa.

Liber homo (Rom. law), a freeman, as distinguished from libertinus, a freedman.

Liber judiciales of Alfred, his dome-book (q. v.).

Libera batella (free boat), a right of fishing.

Liberam legem amittere (to lose one's free law). By this, which was called the "villainous judgment," conspirators were in ancient times deprived of all their legal rights.

Liberate, a writ to the sheriff to deliver to the cognizee or creditor possession of lands and goods of the debtor, which had been extended on forfeiture of his recognizance. See Merchant-staple. Obsolete. (2) A writ to a gaoler to deliver a prisoner that had put in bail for his appearance.

Liberty, the state of freedom. (2) An authority to do something which would otherwise be wrongful. (3) A franchise. (q. v.). (4) The place where a franchise is exercised. See Non omissas. (5) Or liberties, a privileged district exempt from the sheriff's jurisdiction.

Liberty of the Hues, the privilege to go out of the Fleet and Marshalsea prisons within certain limits and there reside. Abolished by 5 & 6 Vict. c. 22.

Liberum tenementum, frank (or free) tenement. This was formerly a usual plea of a defendant in action of trespass, alleging a general freehold title. Now obsolete.

Liblac, witchcraft, the compounding of philtres.

License, a permission or authority to do something which would otherwise be inoperative, wrongful, or illegal. It may be
either written, or verbal; but all licenses under statutes are written. A marriage license is of three kinds—(a) special, granted by the Archbishop of Canterbury, enabling the parties to be married in any church, chapel, or convenient place; (b) ordinary, granted by any archbishop or bishop, under which they may marry in any church or chapel in his diocese, where banns may be lawfully published; (c) superintendent registrar’s, enabling them to marry at any place within his district, with such rites or forms as they may think fit. Liquor licenses are granted (a) by a justice or magistrate (in counties) or by a licensing committee (in boroughs); (b) by the excise on production of the last-mentioned license. Both have to be renewed yearly. They vary in kind according to the nature of the liquor sold (beer, spirits, &c.), the place where it is to be consumed (on or off the licensed premises), and the time when it may be sold (a six day license excludes Sundays). Occasional licenses may be granted by the commissioners of police, or other local authority, enabling the license on a specified occasion to keep open his premises later than the hour fixed by law. See also Game, Gunpowder, Race-course.

Licentia concordandii. See Fine.

Licentia transfretandi, was a writ or warrant directed to the keeper of a seaport, commanding him to let the persons therein named pass over sea.

Licentiate, one who has licence to practise any art or faculty.

Liegé, or ligius (ligatus. Lit. one bound, scil. by feudal tenure.), See Homage.

Liegé poustie, a state of sound health, which gave a person lawful power in Scotland to dispose of his heritable property. By the Scotch law of deathbed (abolished by 34 & 35 Vict. c. 81), the heir could challenge and avoid any voluntary grant made by his predecessor while ailing, if the latter died of that illness within sixty days of making the grant, and without recovering meanwhile.

Lien, a right in one man (1) to retain that which is in his possession belonging to another, until certain demands of the person in possession are satisfied: or, (2) to charge property in another’s possession with payment of a debt, &c., e. g. a vendor’s lien (q. v.). It may be either (a) particular, arising out of some charge or claim connected with the identical thing; or (b) general, in respect of all dealings of a similar nature between the parties. It may be (i.) by agreement between the parties, express or implied (conventional); or (ii.) by operation of law, owing to the special relation between them, as in the case of a solicitor and client. See Maritime lien.
Lien of a covenant. The commencement of a covenant stating the names of the covenantors and covenantees, and the character of the covenant, whether joint or several.

Lieu (Fr.), place: in lieu of, in the place or stead of.

Life annuity, an annual payment during the continuance of any given life or lives.

Life-estate, a freehold not of inheritance. It is either—

(1) Conventional, or expressly created by the act of the parties, which is either—
   (a) For one's own life, or
   (β) The life of another—pur anter vie; or

(2) Legal, which is either—
   (a) Tenancy-in-tail after possibility of issue extinct.
   (β) Courtesy of England.
   (γ) Dower.

Life-land, or Life-hold, land held on a lease for lives.

Life-rent (Sc.), a rent received for a term of life. The owner of the property (real or personal) subject to the life-renter is called the fief, and the reversion the fee. The legal life-rents are terce (dower) and courtesy.

Ligan, wreck consisting of goods sunk in the sea, but tied to a buoy, so that they may be found again. See Jettam.

Ligeance, allegiance (q.v.).

Light, a right to have the access of the sun's rays to one's windows free from any obstruction. An uninterrupted enjoyment of light for twenty years constitutes, in every case, an absolute and indefeasible right to it, unless it shall appear that the enjoyment took place under some deed or written agreement. Windows that have acquired a right to light are called ancient lights. The right is not lost by pulling down and rebuilding the house, provided the new windows occupy the same positions as the old ones, and are of the same dimensions.

Lignagium, a right of cutting fuel in woods.

Ligula, a copy or transcript of a court-roll or deed.

Limitation of actions. By various statutes, the earliest of which was 21 Jac. I. c. 16, and the chief succeeding ones, 3 & 4 Wm. IV. cc. 27 and 42, and the Real Property Limitation Act, 1874, certain periods are fixed within which, if at all, proceedings must be taken to enforce a right, or else the right of action is lost. In the case of land, adverse possession for twelve years effects a statutory transfer of the ownership to the person in possession; in the case of a debt, the remedy only is barred, the debt not being extinguished. See Retainer. Arrears of rent and interest can only be recovered within six years, land or rent only
within twelve years, of the date when "time began to run," *i.e.*, the date when the right to bring an action, or to make an entry or distress first accrued. In certain cases, however, persons under disability, *e.g.*, infants, have an additional period granted them, which is calculated from the time the disability ceases. Express trusts, except those for payment of debts or legacies, are not within the Acts. Concealed fraud prevents the Statute "running."

**Limitation**, of an estate, a clause in a conveyance, will, &c., which declares how long the estate limited or given thereby shall continue.

**Limitation, Words of**, those which operate by reference to, or in connection with, words of grant in a conveyance, will, &c., and limit or declare the nature of the estate given by such other words; *e.g.*, "heirs," "heirs of the body."

**Limited administration**, administration (*q. v.*) of the effects of a testator or intestate, which is limited either as to time or as to the assets to be administered.

**Limited executor**, an executor whose appointment is qualified by limitations as to the time or place wherein, or the subject-matter whereon, the office is to be exercised.

**Limited liability.** A company is *limited* or *unlimited*, according as the liability of its shareholders is restricted to the amount they severally hold or guarantee in the capital of the company, or is not. By 42 & 43 Vict. c. 76, companies originally registered as *unlimited* may be registered anew with limited liability. The Act, however, continues the unlimited liability of banks of issue in respect of their notes. As to liability of shipowners, see Merchant Shipping Act, 1862. s. 54. See *Joint Stock, Share*.

**Limited owner**, a tenant for life, in tail, or by the courtesy, or other person not having a fee simple in his absolute disposition. See *Settled Land*.

**Lineal.** See *Kindred*.

**Liquidated**, fixed, ascertained; *e.g.*, *damages*, in contradistinction to a penalty (*q. v.*).

**Liquidation**, a method by which an insolvent could, under the Bankruptcy Act, 1869, by leave of his creditors, distribute his available assets amongst them, and escape being made a bankrupt. See now the Bankruptcy Act, 1883, ss. 18, 19.

**Liquidator**, a person appointed to carry out the winding-up of a company. An *official* liquidator is one appointed by the Court in a compulsory winding-up (*q. v.*).

**Liquors, Intoxicating.** See *Licence*. 


Lis, an action, dispute. Post litem motam, after the dispute has arisen.

Lis pendens (a pending suit). If an action is registered at the Central Office as a lis pendens, this is ipso facto notice to persons dealing with the property of the existence of an action affecting it. See Stay.

Literal, written; adhering to the letter.

Litigant, one engaged in a law-suit, or litigation.

Litigious, A church is said to be, when two patrons present to it under different titles upon the same avoidance.

Litis estimatio, the measure of damages.

Litis contestatio. See Contestation.


Livery. Formerly an infant heir, ward of the crown, had on attaining twenty-one to sue livery in order to obtain possession of his lands. Livery of seizin, was the mode of transferring the feudal possession of land, before land “lay in grant.” See Feoffment, Grant. It was of two kinds, (a) in dedit, when feoffor and feoffee were both on the land to be conveyed; (b) in law, when within view of the land. (2) The collective body of liverymen, or members of a city company.

Living. See Benefice, Memory.

Lloyd’s Bonds. Instruments under the seal of a company admitting the indebtedness of the company to a specified amount to the obligee, with a covenant to pay him such amount with interest on a future day. They can only be legally used to pay for work done, not in order to raise money.

Loan Societies, those established for the purpose of advancing money on loan to the industrial classes, to be repaid by instalments. See 3 & 4 Vict. c. 110, 38 & 39 Vict. c. 60.

Local actions, those referring to some particular locality, as actions for trespasses on land, in which the venue (q. v.) must have been laid in the county where the cause of action arose.

Local allegiance, such as is due from an alien or stranger born, so long as he continues within the sovereign’s dominions.

Local authority, Local Board. See Public Health.

Local Courts, tribunals of a limited and special jurisdiction, as the borough and county courts.

Location (Roman law), letting. See Hiring.

Locke King’s Act, 17 & 18 Vict. c. 113 (amended by 30 & 31 Vict. c. 69, and 40 & 41 Vict. c. 34), first precluded the heir or devisee of a mortgaged estate from claiming to have the mortgage or charge satisfied out of the personal estate of the deceased.
Locum tenens, a deputy.

Locus in quo (the place in which).

Locus poenitentiae (Sc. a chance of repentance), a power of drawing back from a bargain before any act has been done to confirm it in law; e.g., acceptance by the other party.

Locus regit actum. The place governs the act; that is, the validity of a legal transaction is, by international comity, usually governed by the law of the place where it was concluded.

Locus sigilli, abbrev. L. S., the place of the seal.

Locus standi, the right of a party to appear and be heard on the question before a tribunal.

Lodger, one who occupies rooms in a house, the general control over which remains in the landlord. A lodger’s goods cannot be distrained by the superior landlord of his landlord. Occupancy for a year of unfurnished lodgings of 10l. yearly value gives a lodger’s franchise.

Lopwood, a right to lop wood for fuel on waste land of a manor.

Lord, in feudal tenure, one of whom land is held by a tenant. His right to services, &c., is called his seigniory or lordship. See Homage, Manor. Lord Paramount, the Crown, of whom all land is in theory held. See Sovereign.

Lord Chamberlain of Great Britain, or Lord Great Chamberlain, an hereditary officer of the Crown, to whom belongs inter alia the government of the palace at Westminster, and the care of the House of Lords during session; (2) of the Household, has the superintendence over the officers of the Queen’s Chambers and the licensing of plays; (3) The Chamberlain of London, keeps the city moneys, presents the freedom of the city, &c.

Lord Chancellor, Chief Justice, &c. See Chancellor, Chief Justice.

Lord High Admiral. See Admiralty.

Lord Lieutenant of a County, an office instituted by Henry VIII. to represent the Crown in each county, and manage the militia.

Lord Warden. See Cinque Ports.

Lords of Appeal, those members of the House of Lords who sit and hear appeals; they include the Chancellor, the Lords of Appeal in Ordinary, or “law-lords,” and peers who have held high judicial office.

Lords Justices of Appeal, the members of the Court of Appeal. Those appointed under the Appellate Jurisdiction Act, 1876, are under obligation to go circuit.
Loss, in the law of marine insurance may be either total or partial. Total loss may be actual, where the ship or cargo is entirely destroyed; or constructive, where it is in such a condition by damage or otherwise that the insured become entitled to abandon it to the underwriters and treat it as loss. See Abandonment, Insurance.

Lost grant. See Prescription.

Lost or not lost, these words in a maritime policy enable the insured to recover, even if the subject of the insurance be lost at the time of making the policy.

Lot, Lot-mead. See Dolr.

Low-water mark, that part of the shore to which the water recedes when the tide is lowest.

Lucid interval, a period of sanity intervening between two attacks of insanity. An act done during a lucid interval is as valid, and entails the same responsibilities, as the act of a sane person.

Lunatic, a person who (1) has intermittent attacks of insanity or suffers from delusions; (2) who is found by inquisition (q. v.) incapable of managing himself or his affairs; (3) who is confined in an asylum under proper certificates. (2) includes idiots and imbeciles. For (3) the certificates of two doctors as to the existence and nature of the insanity are required. Proceedings in lunacy, those taken before the Lord Chancellor or other persons entrusted under the sign manual with the care of lunatics.

Lying by, acquiescence (q. v.)

Lynch law, a form of trial by persons possessing no proper judicial authority.

Lyndhurst’s (Lord) Act, 5 & 6 Wm. IV. c. 54, renders marriages within the prohibited degrees absolutely null and void.

Lyon. See Kings-at-Arms.

M.

M. E., Master of the Rolls (q. v.)

Magis de bona quam de male lex intendent. — (The law favours a good, i.e., lawful, rather than a bad construction.)

Magistrate, a person charged with executive functions. (2) Judicial officers having summary jurisdiction in criminal offences. These are (a) honorary, e.g., justices of the peace (q. v.); (b)
stipendiary or police magistrates who administer the law in large towns and receive a salary.

Magna (or Great) Charta, is based substantially upon the Saxon Common Law, and contains the solemn restitution of the ancient liberties of the realm exacted by the barons from King John in the year 1214, and subsequently confirmed by over thirty different statutes, of which those of 9 Henry III. and 25 Edward I. are the most important. It provided inter alia against abuses of the royal prerogative, and the proper administration of justice.

Maills and duties (Sc.), rent.
Maim. See Mayhem.
Mainour, Manour, or Meinour, a thing stolen which is found in the hand (in manu) of the thief who took it.
Mainovre, a trespass committed by hand. See 7 Richard II. c. 4.
Mainpernable, that which may be held to bail.
Mainprise (a taking into the hand, the person being delivered to the mainporners who undertook to produce him again), an old term for bail (q. v.).
Mainsworn, foresworn.
Maintainors, or Bearers. See Maintenance.
Maintenance, of infants, lunatics, &c., the supply of necessaries to those who are incompetent to provide for themselves. Maintenance clause, in a will, &c., is one empowering the trustees to make provision for infants becoming entitled thereunder, out of their expectant or presumptive share in the trust fund. By 44 & 45 Vict. c. 41, this power is given to all trustees of settled property. (2) of actions, includes champerty and embracery, and is the offence of a bearor or maintainor, i.e., one who, without interest in the subject of an action, finds money or otherwise assists to carry it on. It is punishable by fine and imprisonment. See Interest Reipublicæ &c.

Majority, full age, twenty-one. A minor comes of age in the eye of the law on the day preceding the anniversary of his birth. See Age. (2) The greater number.

Maker, the person who signs a promissory note; by so doing he engages to pay it according to its tenor. See Bills of Exchange Act, 1882, s. 88.
\( \text{Mal} \), a prefix, meaning bad, wrong, fraudulent.
\( \text{Mala fides} \), bad faith, the opposite to \( \text{bona fides} \).
\( \text{Mala grammatica non vitiat chartam} \). (Bad grammar does not vitiate an instrument.)

Mala in se, acts which are wrong in themselves, whether
prohibited by human laws or not, as distinguished from mala prohibitā (q. v.).

**Mala praxis.** (Bad management.) If the health of an individual be injured by the unskilful or negligent conduct of a medical practitioner, an action for compensation may be sustained. See Miscarriage.

**Mala prohibitā,** acts which are prohibited by human laws, but are not necessarily *mala in se*, or wrong in themselves.

*Maledicta expositio quo corrumpit textum.—* (It is a bad exposition which corrupts the text.) See *Ex antecedentibus &c.*

**Malfeasance,** the commission of an unlawful act.

**Malice,** in law, is a formed design of doing an unlawful act, whether another may be prejudiced by it or not; e.g., the phrase "standing mute of malice," where it means deliberately, without excuse. Cf. *Culpa lata &c.* It is technically called *malitia praecogitāta, malice propenēs or aforethought.* The law implies in such a case the existence of malice; but *express malice,* i.e., actual ill feeling against the person injured, may also be proved to exist.

**Malicious arrest,** arresting another without reasonable cause; for this damages can be recovered.

**Malicious injuries to the person.** Unlawfully and maliciously (see *Malice*) wounding or injuring a person is punishable by penal servitude for life. See 24 & 25 Vict. c. 100.

**Malicious injuries to property,** are those which proceed from malice (q. v.) or wantonness rather than from any intention to benefit the offender; e.g., arson.

**Malicious prosecution,** one preferred maliciously without probable cause: for this damages may be recovered.

**Malingering,** military term, used of soldiers who feign sickness in order to escape duty.

**Malins’ (Sir Richard) Acts.** The Infants' Marriage Settlement Act, 18 & 19 Vict. c. 43, and the Married Women's Reversionary Property Act, 20 & 21 Vict. c. 57.

**Malitia praecogitāta,** malice aforethought. See *Malice.*

*Malitia supplet ætatem.—* (Malice supplies [the want of] age.) Between seven and fourteen years of age an infant is presumed to be incapable of a criminal intention (see *Malice*) unless the contrary is proved. See *Age.*

**Malo grato,** in spite; unwillingly.

**Malum.** See *Mala.*

**Malversation,** misbehaviour in an office, employment, or commission; as breach of trust or extortion.

**Manager.** When the two Houses of Parliament have a con-
ference, each House appoints managers to represent it, and by these it is held. See Impeachment. (2) See Receiver.

Mandamus (we command), a prerogative writ of a remedial nature, addressed to a person, sole or corporate, and not to the sheriff, as are ordinary writs. In form it is a command issuing in the Queen's name from the Queen's Bench Division only, requiring the person to whom it is addressed to do some act therein specified, which is generally one connected with his duty as a public official. A peremptory mandamus is a second one issued where the return to the first is insufficient. Mandamus also issues to a colonial court to examine witnesses. As to the writ of mandamus, see R. S. C., 1883, Ord. LI., r. 5, &c. By R. S. C., 1883, Ord. L., r. 6, an interlocutory mandamus may be granted in any case in which it appears just or convenient.

Mandant, the principal in the contract of mandate.

Mandatary, he to whom a mandate or charge is given.

(2) He that obtains a benefice by mandamus.

Mandate, a judicial command. (2) A charge or commission; (3) or mandatum, a bailment (q. v.) of goods without reward, to have something done to them; not merely for safe custody.

Manifest, a document signed by the master of a ship, setting forth inter alia the description and destination of the goods shipped by him.

Mannopuus, goods taken in the hands of a thief.

Manor, an estate in fee granted by the Crown, prior to the statute of Quicke Emptores (q. v.), 1290, to a person called the lord. There must be at least two freeholders of every manor to hold the Court Baron (q. v.); if there are copyholders, they have a Customary Court (q. v.). The lands of a manor are (a) demesne (dominicales, belonging to the lord), part of which was usually granted by the lord to copyholders or customary freeholders, and a certain part held by villeins at the will of the lord; (b) the lord's wastes, over which his tenants usually had rights of common given to them. A manor, as a rule, has various franchises (q. v.) appendant to it; e.g., the right to waifs and strays. A manor of which the demesne lands have been alienated is extinguished, and becomes a lordship in gross. If the number of freeholders is less than two, it ceases to exist, but may continue to be a manor by reputation. See Common, Fine, Service.

Manser, a bastard.

Mansion-house, the residence of the lord of a manor. (2) The chief dwelling-house on an estate. This, by the Settled Estates Acts (q. v.), a tenant for life, or other limited owner, is not allowed to sell.
Manslaughter, the unlawful killing of another without malice express or implied. See Malice. It is either—
(a) Voluntary, upon a sudden heat; or
(b) Involuntary, upon the commission of some other unlawful act.

Mansum or Manse, a dwelling house, especially of a clergyman.

Man-trap, an engine to catch trespassers: unlawful except in a dwelling-house between sunset and sunrise.

Manumission (Roman law), the act of giving freedom to slaves.

March, a boundary.

Marches, Court of, an abolished tribunal in Wales for recovery of debts under £50.

Marchet, a fine anciently paid by a tenant to his lord on the marriage of a daughter of the tenant.

Mare Liberum, a famous treatise by Grotius, to show that all nations have an equal right to use the sea.

Marginal notes, in statutes, have not the authority of the legislature and cannot alter the interpretation of the text.

Maritigium habere, or Maritare, to have the free disposal of an heiress in marriage.

Marital, pertaining to a husband. See Jus mariti.

Maritime law, the law relating to harbours, ships, and seamen. See Laws of Oleron.

Maritime lien, a lien (q. r.) (a) on a ship, e. g. by a ship-owner, independently of contract, for freight; (b) on freight.

Mark, see Trademark, Marksman.

Market. The right to hold a market is a franchise (q. r.), and includes the right to levy tolls, and to restrain others from holding markets so near as to interfere with its custom.

Market overt (open market). In the city of London every shop where goods are exposed for sale is market overt, and on every day except Sunday; but in other places, only the market place and the market day are within the rule as to market overt, which is this, that goods so sold, whatever defect there may be in the vendor’s title, e. g. though stolen, become the absolute property of a bona fide purchaser. The rule, however, does not hold if the true owner prosecutes the thief and obtains a conviction; in this case the property reverts to him. See Horse.

Marksman, a person who cannot write, and therefore makes his mark (X) only in executing instruments, another writing his name each side of such mark.

Marlebridge, Statute of, 52 Hen. III., A.D. 1267, was principally directed against unlawful distress.

Marriage, the status of a man and woman conjoined
matrimony; (2) the solemnity by which they are united. The consent of both parties is essential to its validity. The age of consent, and therefore of legal capacity for marrying, is fourteen in males, twelve in females. As to marriages in England, see Licence. In Scotland, marriage may be constituted also (a) by declaration, per verba de presenti, i.e. of the consent of the parties to a present marriage; (b) by promise, per verba de futuro, subsequente copulâ; (c) by cohabitation with habit and repute. The validity of a marriage is determined by the lex loci contractus (q. v.). See Divorce, Husband and Wife, Dower, Curtesy, Jus Mariti, Gretna Green. A promise of marriage need not be in writing.

Marriage articles, an agreement in order to marriage, and preliminary to a settlement, by which it is intended that it should be duly carried out; (2) a marriage settlement (q. v.).

Marriage brocage, a consideration paid for contriving a marriage, and illegal as contrary to public policy.

Marriage portion, see Dowry.

Marriage settlement, (a) ante-nuptial, an arrangement made before marriage, and in consideration of it, whereby as a rule a jointure is secured to the wife, and portions to children, in the event of the husband’s death, and ulterior limitations are made of the settled property in the event of no children taking under it; (b) post-nuptial, or after marriage, which lacks the consideration of marriage and is therefore voluntary. See Settlement.

Married Women’s Property Act, 45 & 46 Vict. c. 75, repealing 33 & 34 Vict. c. 95 and 37 & 38 Vict. c. 50, modifies the common law right of a husband (see Jus mariti) to the property and earnings of his wife, limits his liability for her debts, and imposes new liabilities on her for her own debts and engagements, and for the maintenance of her husband and children. See Husband and Wife.

Marshal, Judge’s, an officer who attends a judge on circuit in the capacity of secretary, and makes notes of the records for the judge.

Marshalling of assets, a doctrine which depends on the principle that a person having two funds out of which to satisfy his creditors’ demands, shall not by his election prejudice a person who can only come upon one of the funds. A testator is said to marshal his own assets in favour of a charity (which the court will not do), when he directs a legacy to a charity to be paid out of his pure personality, for otherwise it would be liable to abate in the proportion of the impure to the pure personality. See Mortmain.
Marshalsea, Court of the, was originally held before the steward and marshal of the royal household, and had jurisdiction in causes of debt or tort which arose within twelve miles of the sovereign's residence. Abolished 1849.

Martial law, that rule of action which is imposed by the military power.

Martinmas, the 11th of November. See Candlemas.

Master and Servant. By the common law a master is not liable to one in his employ for injuries resulting from the negligence of a fellow-servant in the course of their common employment. But see now the Employers' Liability Act, 1880. A master may bring an action against a third person for any injury to his servant whereby he loses the benefit of his services and suffers actual damage (see Seduction); and if the servant in the course of his employment tortiously causes injury to a third person the master is liable.

Master of the Crown Office, see Masters.
Master of the Faculties, see Faculties.

Master of the Horse, the third chief officer of the Queen's household, being next to the Lord Steward and Lord Chamberlain.

Master of the Rolls, a judge of the Chancery Division ranking next to the Lord Chancellor. His original duties, which he still retains, were not judicial, but consisted of keeping the rolls and grants which pass the great seal, and the records. He is the head of the Petty Bag Office (q.r.) and admits solicitors of the Supreme Court. By the Judicature Act, 1881, s. 2, he sits in the Court of Appeal only. He is the only judge who may sit in the House of Commons.

Masters, (a) in Chancery were abolished in 1852, and their duties relegated to chief clerks and registrars. See Taxing Master; (b) Masters of the Supreme Court, officials who fill, under the Judicature Act, 1879, the place of the sixteen Masters of the Common Law Courts, the Master of the Crown Office, the Queen's Coroner and Attorney, the two Record and Writ Clerks, and the three Associates. Their duties, inter alia, are to tax costs, compute damages, and attend on the judges.

Masters in Lunacy, officers of the Lord Chancellor in his capacity of guardian of lunatics. They hold commissions of lunacy (q. r.), and superintend the management of lunatics' property.

Material, see Alteration, Misrepresentation.

Matrimonial causes, include suits for divorce, judicial separation, nullity of marriage, restitution of conjugal rights, and for jactitation of marriage. See those titles. The Probate, Divorce, and Admiralty Division has the jurisdiction in these matters.
Matina, a godmother.
Matrons. See Jury of.
Maturity, ripeness, full development; of a bill, the time when it becomes due. See Bill of Exchange.
Maunday Thursday, the day before Good Friday (maund, Sax., an alms-basket).
Maxim, an axiom; a general or leading principle.
Mayhem, the deprivation of a member proper for defence in fight, as an arm, leg, eye, or fore-tooth; but not a jaw-tooth, ear, or nose, because they were supposed to be of no use in fighting. One circumstance peculiar to an action for mayhem was that the court might, on view of the wound, increase the damages awarded by the jury. The law now makes no distinction between one member and another with regard to the offence of feloniously wounding.
Mayor, the chief magistrate, annually elected, of a municipal borough. He is usually chosen out of the aldermen or councillors, and is a justice of the peace ex officio. The mayor of London is called the Lord Mayor.
Mayor's Court of London, an inferior court having jurisdiction in civil cases where the whole cause of action arises within the city of London, and also in actions not claiming more than £50, if part of the cause of action so arises, or if the defendant carried on business in the city within six months of action brought. The judge of the court is the Recorder, and in his absence, the Common Serjeant. See Foreign Attachment.
Mease, mess, meason, a house.
Measure of damage, the test which determines the amount of damages to be given.
Mediate testimony, secondary evidence.
Medical jurisprudence, otherwise called forensic medicine, the science and art of medicine as applied in courts of law.
Medietas linguae, see Jury.
Medio acquietando, a judicial writ to restrain a lord for the acquitting of a mesne lord from a rent, which he had acknowledged in court not to belong to him.
Meditatio fugae. A debtor in meditazione fugae (meditating flight) may, by the law of Scotland, be arrested by warrant obtained for that purpose.
Meeting. In the law of bankruptcy the first meeting of creditors decides whether to make the debtor bankrupt or to entertain a proposal for a composition or scheme of arrangement; it may also appoint a trustee and committee of inspection. See the Bankruptcy Act, 1883, ss. 18, 21. In company law a distinct-
tion is drawn between (a) ordinary, and (b) special or extraordinary meetings; (a) are held at regular stated intervals, the first within four months of registration, and one every year at least afterwards; (b) are summoned for the discussion of special matters, usually mentioned in the notice. See Resolution.

Melior est conditionis, or possidentis.—(The condition of the party in possession is the better one, i.e. where the right of the parties is equal.) Cf: Possession is nine-tenths of the law. For in order to oust the possessor, the plaintiff must prove affirmatively his own title; it is not sufficient to show that the defendant has no title.

Meliorations (Sc.), improvements.

Melius est potere fontes quam sectari rivos.—(It is better to go to the fountain head than to follow streamlets from it). This applies especially to quotations and extracts from celebrated judgments or authors.

Melius inquirendum, a writ that lay for a second inquiry, where partial dealing was suspected, or the former inquest was incomplete on the face of it.

Memorandum, in a policy of marine insurance, a clause exempting the insurer from liability for damage to certain specified articles of a peculiarly perishable nature.

Memorandum of Alteration, in a patent, a disclaimer or renunciation by a patentee of part of the invention originally claimed by his patent.

Memorandum of Association, a document required by s. 8 of the Companies Act, 1862, from every joint-stock company on its formation; it must contain the name of the company, its objects, the amount of its capital, the liability of its members, &c. It usually is, though it need not be, except in the case of a company limited by guarantee only, or unlimited, accompanied by articles of association (q. v.), regulating the position of the members inter se. The memorandum cannot be altered by subsequent resolution, except in matters affecting the capital of the company.

Memorial, a document containing the short particulars of a deed, &c., for purposes of registration. (2) A petition.

Memory, Time of legal. By Statute of Westminster the First, 3 Edw. I., A.D. 1276, this was limited to the reign of Richard I., July 6, 1189. But see now Prescription, Limitation. Time of living memory, time which persons now living can testify to.

Men of straw, men who used in former days to ply about the courts of law for the purpose of giving suborned evidence, and who, from their manner of making known their occupation
(i.e. by a straw in one of their shoes), were recognised by the
name of straw-shoes. (2) A worthless person, one without means.

Mensa, patrimony, goods, necessaries. (2) See Judicial
Separation.

Mental reservation, a silent exception to the general
words of a promise or agreement, not expressed, either on account
of a general understanding on the subject, or for the purpose of
evading liability thereunder.

Mercantile law, that which deals with matters affecting
trade; e.g. bills of exchange, marine insurance, and the like.

Mercantile Law Amendment Act, 1856, 19 & 20 Vict. c. 97. Among other changes wrought by this Act was this, that
absence beyond seas should no longer be a disability within the
Statute of Limitations, entitling a person to extension of time
for bringing an action.

Merchandise Marks Act, 1862, 25 & 26 Vict. c. 88, was
passed to prevent the fraudulent marking of merchandize and the
sale thereof when falsely marked. See Trademark.

Merger, an annihilation, by operation of law, of a lesser in a
greater right or estate, consequent upon their union in the same
person. It takes place independently of the will of the party.
Ownership of two or more estates in different rights, e.g. as
trustee and beneficial owner, does not produce a merger. By the
Judicature Act, 1873, s. 25, there can now be no merger by oper-
ation of law only of any estate the beneficial interest in which
would not be deemed to be merged or extinguished in equity.
See Acceleration, Enlargement, Extinguishment.

Meritorious consideration, one founded upon some moral
obligation; such as natural love and affection, sometimes called
good, as opposed to valuable.

Merits, Affidavit of. This is usually necessary when a
defendant seeks to set aside a judgment given against him by
default. He must thereby show that he has a good case on the
merits, i.e. apart from all mere technical considerations, or leave
will be refused.

Merton, Statute of, 20 Hen. III., c. 4, A.D. 1235, authorized
enclosure or approbment by lords of manors, provided the free-
holders are left sufficient pasture.

Mensalily, the seigniory of a mesne lord.

Mesne, middle, intermediate, e.g. lord, one between the
superior lord and the tenant. Writ of mesne, was brought by
tenant paravail against the mesne lord, if he was distrained on
by the lord paramount.

Mesne process, all those writs which intervene in the pro-
gress of a suit or action between its beginning and end, as distinguished from primary and final process. See *Arrest*, *Capias*.

**Mesne profits, Action of**, an action of trespass brought to recover profits derived from land, whilst the possession of it has been improperly withheld.

**Messuage, a dwelling house with the curtilage.**

**Metayer system, a system of land tenure, common in some parts of Europe, under which a farm is let to a single family, the landlord finding the stock, and being paid by a share of the produce instead of a rent.**

**Metes and bounds, By** (measurements and boundaries), a widow's dower of land is said to be so set out and held, when her share has been ascertained.

**Metropolitan Board of Works, a body constituted by 18 & 19 Vict. c. 120 to manage matters, such as main sewers and public improvements, affecting the metropolis at large, vestries and district boards attending to the more purely local matters, lighting, drains, new streets, and the like.**

**Mid-impediment (Sc.), (medium impedimentum, Roman law), anything which intervenes between two events, and prevents the latter having a retrospective operation as regards the former.**

**Middle-man, an agent between two parties. In Ireland, a person who takes land in large tracts from the proprietors, and then leases it out in small portions at an enhanced rent.**

**Mileage, travelling expenses, which are allowed to witnesses, sheriffs, and bailiffs, according to certain scales of fees observed by the taxing officers of the several courts.**

**Military Tenures, see Knight-service, Cornage, &c.**

**Military testament, a nuncupative will, that is, one made by word of mouth, by which a soldier may dispose of his goods, pay, and other personal chattels, without the forms and solemnities which the law requires in other cases.**

**Minatur innocentibus qui parcit nocentibus.—(He threatens the innocent who spares the guilty.)**

**Mineral, in its widest sense, includes any substance, being part of the earth, which can be got from underneath its surface, for the purpose of profit, whether (a) by mines or underground workings, or (b) by quarries or open workings; but it is sometimes restricted by the context to (a). Mines of gold and silver are called Royal, as the Crown has the right of pre-emption.**

**Minime mutanda sunt quae certam habent interpretationem.—(Things which have a certain interpretation are to be altered as little as possible.) This applies especially to conveyancing terms.**

**Ministerial, is opposed to judicial or discretionary, and involves the following of instructions.**
**Ministrant**, the party cross-examining a witness under the old system of the ecclesiastical courts.

**Minority**, the state of being under age, *i.e.* twenty-one. See **Infant.** (2) The smaller number.

**Minutes**, notes or records of a transaction, meeting, &c.; (2) of an order or judgment, are an outline of the order, &c., required, and are drawn by the counsel for one party, and submitted to the counsel for the other, so as to settle beforehand the points which are agreed on between them, and the general form of the order, where this is not in dispute. The order is afterwards drawn up in detail by the registrar.

**Mirror of Justices, The**, a work on law, bearing the name of Andrew Horne; probably compiled temp. Edward II.

**Misadventure**, see **Homicide per infortunium**.

**Misappropriation**, the act of fraudulently misapplying funds or property entrusted to one; as in the case of a director, servant, or agent.

**Miscarriage**, a failure of justice. (2) Abortion (*q.v.*).

**Mischief**, of a statute, the evil or danger which it was intended to cure or avoid.

**Misdemeanor**, any crime or indictable offence not amounting to felony. To shoot at, or do certain acts with intent to alarm, Her Majesty is, under 5 & 6 Vict. c. 51, a high misdemeanor.

**Misdescription**, in a contract, if material, may make it voidable at the option of the party misled. See **Misrepresentation**.

**Misdirection**, an error in law made by a judge in charging a jury. See **New Trial**.

**Mise, disbursement, costs.** (2) The issue in the obsolete writ of right.

**Misra est servitusubi jus est vagum aut incertum.**—(Wretched is the slavery where the law is changeable or uncertain.)

**Misericordia**, an arbitrary amerciament or punishment.

**Misfeasance**, a wrongful act. (2) The improper performance of some lawful act. (3) Negligence.

**Misfeasor**, the doer of a misfeasance; a trespasser.

**Misjoinder of parties**, the making of wrong persons plaintiffs or defendants in an action. Since the Judicature Act no action can be defeated on this ground alone.

**Mismanomer**, the giving a wrong name to a person in a judicial proceeding. Any such mistake may now be rectified by amendment.

**Misprision**, (1) of treason, is the offence of not giving information concerning an act of high treason of which one is aware:
(2) of felony, to conceal, or aid in concealing, a felony: (3) Positive, maladministration, embezzlement of public money.

Misrepresentation, though strictly speaking, suggestio falsi, i.e., a false statement, also includes supressio veri, or concealment. To induce the Court to relieve against a contract, it must be shown that the misrepresentation was material, and that the party claiming relief was misled by it. (See Vigilantibus &c.) It is equally a misrepresentation, entitling the other party to obtain rescission of the contract, if a man makes a false statement which he does not know to be false, if it induces the other party to enter into the contract; though to found an action for deceit there must be fraudulent knowledge at the time of making the statement.

Mistake, misconception, ignorance. It is (a) of law, ignorantia legis (q.v.); (b) of fact, ignorantia facti: as to which, the rule is that an act done in ignorance of a material fact is relieved against, provided that compensation can be made; and this, though there be no fraud. Foreign law is a question of fact. Mistakes in expressing the terms of an agreement, or on executing a power, will as a rule be corrected or aided by the Court; and parol evidence is admissible to prove either mistake, accident, or fraud.

Mistrial, an erroneous trial.

Misuser, abuse of any liberty or benefit, which works a forfeiture of it.

Mitigation, abatement of damages or of punishment; an address in mitigation is a speech made by the defendant or his counsel to the judge, after verdict or plea of guilty, and which may be followed by a speech in aggravation from the prosecuting counsel.

Mitter le droit (to pass a right). See Release.

Mittimus (we send), a writ for removing and transferring records from one Court to another. (2) A precept or command in writing, directed to the keeper of a prison for the receiving and safe keeping of an offender.

Mixed actions, those which claimed both realty and personalty. See Ejectment, Mesne Profits, Action.

Mixed contract (Roman law), one in which one of the parties confers a benefit on the other, and requires of the latter something of less value than what he has given; as a legacy charged with something of less value than the legacy itself.

Mixed fund. See Blended fund.

Mixed larceny, otherwise called compound or complicated larceny, that which is combined with circumstances of aggravation or violence to the person, or taking from a house.
Mixed personality, impure personality (q.v.).

Mixed questions of law and fact, cases in which a jury find the particular facts, and the Court decides upon the legal result of those facts by the aid of established rules of law.

Mixed subjects of property, such as fall within the definition of things real, but which are attended nevertheless with some of the legal qualities of things personal, as emblems, fixtures, and shares in public undertakings, connected with land: and vice versa, e.g., animals ferar nature, and heirlooms.

Mobilia sequuntur personam.—(Moveables follow the person.) In accordance with this maxim, personal assets of an intestate are distributed according to the laws of the country where he is domiciled, not of that where they are situate.

Modification (Sc.), the term usually applied to the decree of the Teind Court, awarding a suitable stipend to the minister of a parish.

Modo et forma (in the manner and form mentioned), a phrase formerly used in pleading, meaning that an allegation must be shown true in every detail, not merely in its general effect.

Modus, or Modus decimandi, a particular manner or custom of tithing arising from immemorial usage, and differing from the ordinary payment of one-tenth.

Modus et conventio vincent legem.—(Custom and agreement overrule law.) Except when contrary to public policy.

Moist, a half. (2) Any equal share, e.g., a third.

Molestation, the offence of annoying a person for the purpose of controlling his actions: see 38 & 39 Vict. c. 86, Trades Unions. (2) (Sc.), An action for disturbing one in the possession of land.

Molliter manus imposuit (he laid hands gently on him), a defence in an action of battery, that the defendant used only the necessary force, and for a justifiable reason. Thus an officer may lay hands upon another to turn him out of church, and prevent his disturbing the congregation; and if sued for this, may plead as above.

Molmutian laws, the first published in Britain; c. 400 B.C.

Money. See Earmark, Tender, Money Counts.

Money counts. Simple contracts, express or implied, resulting in mere debts, are of so frequent occurrence as causes of action, that certain concise forms of counts were devised for suing upon them. These were called the indebitatus or money counts, e.g., "money paid," "money had and received." Disused.

Monition, in Admiralty practice, an order of a court, to a
person monished, to do something. (2) An order to a clergyman to abstain from practices contrary to ecclesiastical law: (3) for process, in ecclesiastical appeals, an order to the court below to transmit an official copy of the proceedings to the Appeal Court.

Monopoly, an exclusive privilege; especially one granted by the Crown for trading in any commodity. The statute 21 Jac. I. c. 3, abolished this part of the Royal prerogative, excepting, however, letters patent (q. v.) for a limited period.

Monstrans de droit (manifestation or proof of right), a method of obtaining restitution from the Crown of either real or personal property, where the title of the Crown appears from facts set forth upon record, whereby "manifestation" may be made. The judgment against the Crown is called ouster le main, or amoveas manus.

Monster, a child which has not "the shape of mankind." It cannot inherit land. Mere deformity does not constitute a monster.

Month, Lunar, the time which the moon takes to complete its changes; being twenty-eight days. (2) Solar, that period in which the sun passes through one of the twelve signs of the zodiac. (3) Calendar, one of the twelve months of the year by which we reckon time; consisting of an unequal number of days. The word "month" by the common law signifies, in matters temporal, a lunar, in matters ecclesiastical, a calendar month. In statutes and in commercial dealings it means a calendar month.

Moor, an officer in the Isle of Man, who summons the courts. The office is similar to our bailiff of a hundred.

Moot, a meeting, especially for the purpose of arguing points of law by way of exercise. This used once to be done by the students of the Inns of Court before the benchers, and the custom has of late been revived at Gray's Inn.

Moot-case, or moot-point, a point or case unsettled and disputable, such as properly affords a topic of disputation.

Moot-hills, hills of meeting, on which the Britons held their great courts.

Moratur in lege, "he demurs;" because the party does not proceed to plead, or raise any point of fact, but rests or abides upon the law of the case. See Demurrer.

More or less (sive plus sive minus). These words in a contract not yet completed by conveyance will only excuse a very small deficiency in the quantity of an estate; for if there be a considerable deficiency, the purchaser will be entitled to an abatement on the price.
Morganatic marriage, the lawful and inseparable con-
junction of a man of noble and especially, royal birth, with a 
woman of inferior station, upon condition that neither the wife 
or her children shall partake of the titles, arms, or dignity of 
the husband, or succeed to his inheritance, but be contented with 
a certain allowed rank assigned to them by the morganatic 
contract.

Mormon marriages, by which a plurality of wives is 
allowed, are not recognised by our law, or that of the United 
States.

Mort d' ancestre. See Assize.

Mortgage (a dead pledge), the vesting in a mortgagee by way 
of security for a loan an interest in property of a mortgagor, 
defeasible (i.e. which ceases) upon his performing the condition 
of paying back the loan to the mortgagee, with interest thereon, 
at a certain time. Every mortgage must by law be subject to an 
equity of redemption (q.v.) See also Foreclosure. A mortgage 
may be (a) legal, (b) equitable, or (c) statutory. (a) is created 
by conveyance or assignment of the legal estate in the mort-
gaged property to the mortgagee: (b) is where the legal estate 
does not pass, either because there is no conveyance, or because 
the mortgagor is only equitable owner. In this class are mort-
gages by deposit of title deeds, &c., either with or without a 
memorandum of charge, and mortgages of an equity of redemp-
tion, i.e., of an estate already mortgaged by a legal mortgage; 
(c) is where a charge is created, as in the case of ships, by mere 
registration without conveyance. See Welsh Mortgage, Proviso 
for Redemption, Surrender, Possession.

Mortis causé. See Donatio.

Mortmain (Scotch, Mortification), such a state of owners-
ship of land as makes it inalienable (whence it is said to be in a 
dead hand). This arises when land becomes the property of a 
corporation, which has a continuous existence. To prevent this, 
Statutes of Mortmain were passed prohibiting on pain of 
forfeiture grants of land to corporations, without licence from 
the Crown. From the operation of these statutes many corpora-
tions, e.g., the University of Oxford and Cambridge are exempt. 
(2) The Mortmain or Charitable Uses Act, 9 Geo. II. c. 36, pro-
hibits gifts of land, or money to be laid out on land, for charitable 
purposes, except by deed executed and enrolled with certain 
formalities. This prevents gifts of the above nature being made 
by will. See Personality, Perpetuity.

Mortuary, a place where dead bodies are kept previous to 
terment. (2) A gift left by a man at his death to his parish
church, for the recompense of his personal tithes and offerings not duly paid in his lifetime. (3) An ecclesiastical heriot.

Mote, a meeting or assembling. See Gemot, Moot.

Motion, an application made on affidavit to a court by the parties or their counsel, in order to obtain some rule or order, either in the progress of a cause, or summarily, as in the case of a motion for a writ of habeas corpus. A motion may be made either ex parte, or on notice to the other side. To save a motion is to mention it to the Court for the purpose of adjourning it to the next motion day. See Notice. Arrest of judgment.

Motion for judgment, is the mode of obtaining the judgment of the High Court in all cases where it is not otherwise provided. See R. S. C., 1882, Order XL.

Moveables, goods, furniture, chattels personal.

Mulct, a fine of money or a penalty.

Mulier puisné. See Bastard eigné.

Mulierty, lawful issue.

Multa Episcopi, a fine anciently paid to the Crown by the bishops for the privilege of granting probate of wills and administration.

Multa non vetat lex, quae tamen tacitè damnavit.—(The law forbids not many things which yet it has silently condemned.)

Multifariousness, in a bill of complaint was open to a demurrer. It is the joining in one bill of distinct and independent causes of action. But see now Joinder.

Multipartite, divided into several parts.

Multipointing (Sc.), the same as Interpleader (q. v.).

Multiplicity, the improper bringing of more than one action for a single cause. See Judicature Act, 1873, s. 24 (7).

Multitude, an assembly of ten or more persons.

Multure, a grist or grinding. (2) The payment due for grinding. See Thirlage, Action of abstracted muralures.

Municipal Corporation, a body of persons in a town having the power of acting as one person, holding and transmitting property, and regulating the government of the place. See 5 & 6 Wm. IV., c. 76, which constituted the towns to which it applied, “boroughs.” Under the Consolidating Act, 45 & 46 Vict. c. 50, the mayor, aldermen, and burgesses are made the corporation, and act by a council. Corporations to which the Act does not apply are called unreformed. That of London, with a few others, is excepted from the Act.

Municipal Law, that which pertains solely to the citizens and inhabitants of a state, and is thus distinguished from International law. See Law.
Muniments, writings (title-deeds, charters, &c.), on which rights depend for their support.

Murder, is when a person of sound memory and discretion unlawfully kills any reasonable creature in being with malice aforethought, either express or implied. Killing is not murder unless the person die within a year and a day of the time when the stroke or other injury was inflicted. See Homicide, Malice.

Murdrum, the secret killing of another. (2) The fine imposed on the district where it was committed.

Music. See Copyright, and 46 & 46 Vict. c. 40.

Mutatis-mutandis, means "with the necessary changes in points of detail."

Mute, a term used of one who abstains from pleading to an indictment. A jury must then try whether he stands mute "of malice," i.e., deliberately, or by visitation of God, i.e., being dumb. In the latter case a plea of "not guilty," is entered. See Peine.

Mutiny Act, a statute annually passed between 1689 and 1879, "to punish mutiny and desertion, and for the better payment of the army and their quarters." In the latter year the usual provisions were consolidated in the Army Discipline and Regulation Act, 1879.

Mutual credit clauses, are those (see the Bankruptcy Act, 1883, s. 38), which provide that where there have been mutual dealings between a bankrupt and his creditors, the debts and credits shall be set off against one another, and only the balance claimed.

Mutual promises, concurrent considerations, which will support each other, unless one or the other be void; in which case, there being no consideration on the one side, no contract can arise. They must, in order to be binding, be made simultaneously.

Mutual testament, wills made by two persons who leave their effects reciprocally to the survivor.

Mutuality, reciprocity of obligation, the state of things in which one person being bound to perform some act for the benefit of another, that other on his side is bound to do something for the benefit of the former: (2) of assent, is where both persons know clearly what each of them is undertaking to do: (3) of remedy, is where each can enforce the contract against the other.

Mutuum (Roman law), a loan whereby the absolute property in the thing lent passes to the borrower (it being for consumption), and he is bound to restore, not the same thing, but an equivalent in things of the same kind. See Fungibles.
N.

N. L., non liquet (q. v.).

Nam, Nam, Namium, the taking or distraining of moveable goods, and chattels. It was called sif or mort, according as the chattels taken were living or dead.

Names, are either Christian names, given at baptism, or surnames, from one of the parents, usually the father. A man may take any surname he pleases, without an Act of Parliament or royal license, but cannot alter his Christian name. Name and arms clause, is one inserted sometimes in a will or settlement, by which the gift thereby made is made conditional on the donee assuming the name and arms of the donor within a certain time.

Narratio, a count, a declaration.

National debt, see Fund.

Nationality, the political status acquired by belonging to a nation or state. It arises by birth or naturalization, and determines the allegiance of a person.

Natura Brevium. See Fitzherbert.

Natural love and affection, words used in conveyancing to express a meritorious consideration, being that love which one has for his kindred. See Consideration.

Natural allegiance, that perpetual obedience which is due from all natural-born subjects to their sovereign; as distinguished from local allegiance, which is only temporary.

Natural-born subjects, those that are born within the dominions of the Crown of England. See Naturalization.

Natural child, the child of one's body, not necessarily illegitimate. The word is, however, popularly used as equivalent to bastard.

Natural person, a term used in opposition to an artificial person or corporation, which has a legal though not an actual unity.

Naturalization, investing aliens with the privileges and obligations of native subjects. A naturalized subject cannot divest himself of the obligations due to the State to which he formerly belonged, without the consent of that State. Naturalization is now (since 1870) effected by a certificate obtained from a Secretary of State; formerly it was by private Act of Parliament. See Denizen, Alien.

Naval Court, one held abroad in certain cases to decide questions arising with reference to British ships and their masters or crews.

Navigable. A river, estuary, &c., is so called when the
public have there a right of navigation, i.e., to use it as a highway for shipping, &c. See Fishery.

Navigation Acts, The; now repealed, were passed for the protection of British commerce and shipping, by excluding foreign ships from trading with Great Britain or her colonies.

Navy Bills, those drawn by officers of the navy for their pay, &c.

Ne admittas (do not admit), a writ directed to the bishop where a quare impedit is depending, to prevent him admitting any one during the progress of the suit.

Ne disturba pas, the general issue quare impedit (q. v.), whereby the defendant simply alleged that "he did not obstruct."

Ne exeat regno, a high prerogative writ issuing out of the Chancery Division to prevent a defendant debtor from going abroad and evading the jurisdiction. See 32 & 33 Vict. c. 62, s. 6.

Ne injuste vexes, a writ, abolished 1833, forbidding a landlord to make excessive or unlawful distress.

Ne lites sint immortales dum litantes sunt mortales.—(Let not lawsuits last for ever seeing that the litigants last but for a time.) See Interest Reipublicæ &c.

Ne recipiat, a caveat entered by a defendant to prevent a plaintiff who had entered his cause too late from having it tried at that sittings.

Ne unques, never:—accouple in loyal matrimonie (never lawfully married), a plea in action for dower:—executor, a denial that defendant was personal representative of the deceased:—seisin quo dower, called the "general issue in dower."

Neat cattle, oxen and heifers.

Necessaries, a relative term, implying not merely such things as are required to sustain life, but also those which are suitable to the rank and position of the person concerned. An infant may make a binding contract for necessaries. A married woman has an implied authority to pledge her husband’s credit for such things as are necessary to keep herself and her household in a manner suitable to his condition, unless she has a separate allowance from him. See also 45 & 46 Vict. c. 75, s. 1 (3), Husband and Wife.

Necessitas non habet legem.—(Necessity has no law.)

Necessitas publica major est quam privata.—(Public necessity is greater than private.) Necessitas publica is the necessity to pay obedience to or defend the sovereign; privata, to defend or preserve one’s own life.
Necesitis quod cogit, defendit.—(Necessity defends what it compels, e.g., acts necessary for self-preservation.) See Homicide.
Necessitas sub iure non continetur, quia quod alias non est licitum necessitas facit licitum.—(Necessity is not restrained by law; since, what otherwise is not lawful, necessity makes lawful.)
Necessitas vincit legem.—(Necessity overcomes law.)
Necessity. A man is excused for those actions which are done through unavoidable force and compulsion. See preceding titles. (2) See Way of necessity.
Negative pregnant, an evasive denial which implies or carries with it an affirmative; a denial in form, which is not a denial in substance.
Negligence, want of care. There are three degrees of negligence: (1) ordinary, which is the want of ordinary diligence; (2) slight; and (3) gross, which answer to the leris, lerissima, and crassa of the Roman law. The distinction is important in contracts of bailment; for if a thing be deposited with a bailee for hire, he is only liable for (1); if for his own benefit alone, he is liable even for (2); if for the bailor’s sole benefit, he is liable only for (3). As to the effects of negligence in asserting a right, see Laches. Contributory negligence is where a person has by his own want of care contributed to bring about a loss or accident, and cannot therefore recover damages against the defendant.
Negotiable instruments, those the right of action upon which is, by exception from the rule formerly existing, freely assignable from one to another, such as bills of exchange and promissory notes. They also form an exception, permitted for the convenience of commerce, to the general rule that a man cannot give a better title than he has himself; inasmuch as the bonâ fide holder of a negotiable instrument has a good title, even though he took it from a person who stole it. (2) Certain instruments called negotiable have not the latter characteristic, and are merely transferable by delivery, e.g. scrip.
Negotiate, to transfer a negotiable instrument for value.
Negotiatorium gestor (Roman law), a person who spontaneously, and without the knowledge or consent of the owner, intermeddles with property, with the object of benefiting the owner.
Neife, a man or woman born in villenage.
Nemine contradicente, abbrev. nem. con., the phrase to signify the unanimous consent of the Members of the House of Commons to a vote or resolution; it is analogous to the term nemine dissentiente (nem. din.) in the House of Peers.
Nemo agit in seipsum.—(No one can implead himself.)
Nemo contra factum suum venire potest.—(No one can go against his own deed.) See Estoppel.
Nemo dat quod non habet.—(No one can give that which he has not, i.e. no one can give a better title to a thing than he possesses himself.) But see Negotiable.
Nemo debet bis puniri pro uno delicto.—(No one ought to be punished twice for the same offence.)
Nemo debet bis vexari pro una et eadem causâ.—(No man ought to be twice harassed, i.e. tried, for one and the same cause.) Therefore, by the criminal law, a man once acquitted cannot be afterwards indicted for the same offence, if he might have been convicted on the first indictment by proof of the facts contained in the second indictment.
Nemo debet esse judex in propriâ causâ.—(No one should be judge in his own cause.)
Nemo debet locupletari alienâ jacturâ.—(No one ought to be enriched at another's expense.)
Nemo de domo suâ extrahi potest.—(No one can be dragged out of his own house.) Cf.: Every man's house is his castle.
Nemo est hâres viventis.—(No one is the heir of a living man, i.e., strictly speaking, the question of heirship only arises on the death of the owner.) See Heir, Hâres.
Nemo ex suo delicto meliorem suam conditionem facere potest.—(No one can make his condition better by his own misdeed.)
Nemo patriam exuere nec ligeantiae debitum ejurare possit.—(No man can disclaim the country in which he was born, nor abjure the bond of allegiance.) See Naturalization.
Nemo potest esse simul actor et judex.—(No one can be at once suitor and judge.) See Nemo debet esse judex.
Nemo potest facere per alium, quod per se non potest.—(No one can do through another what he cannot do himself.) This applies to the case of delegated authorities.
Nemo potest mutare consilium suum in alterius injuriam.—(No one can change his purpose to the injury of another.) See Estoppel.
Nemo potest plus juris ad alium transvere quam ipse habet.—(No one can transfer a greater right to another than he himself has.) See Nemo dat &c.
Nemo presumitur ludere in extremis.—(No one is presumed to trifle at the point of death, i.e., an expression in a will is not to be taken as meaningless or absurd if this can be avoided.)
Nemo presumitur malus.—(No one is presumed to be bad.) See Magis de bono &c.
Nemo tenetur ad impossibile.—(No one is bound to an impossibility.) See Impossibility.
Nemo tenetur edere instrumenta contra se.—(No one is obliged to produce instruments which tell against himself.) See, however, Production.
Nemo tenetur seipsum accusare.—(No one is bound to accuse or criminate himself.)

Neper, neptis (Roman law), a grandson, a granddaughter.
Never indebted, Plea of, a general traverse when the defendant meant to deny the existence of the contract on which the plaintiff relied. By R. S. C., 1883, Ord. XIX., r. 17, a general denial is no longer admitted in pleading.

New Assignment. Under the system of pleading before the Judicature Act, if, owing to the vagueness or generality of the plaintiff’s declaration, the answer of the defendant did not sufficiently meet the point at issue, the plaintiff was obliged to “new assign,” or re-state the cause of action. This must now be done by amendment. See R. S. C., 1883, Ord. XXIII., r. 6.

New Style. The modern system of computing time by the Gregorian year, formulated in 1582 by Gregory XIII., was introduced into Great Britain A.D. 1752, the 3rd of September of that year being reckoned as the 14th. Previously the 25th of March was the civil and legal New Year's day. The Russians and Greeks still use the old style or Julian year.

New trial. If any defect of judgment happen from causes wholly extrinsic, i.e. arising from matters foreign to or dehors the record (such as mistake or misdirection (g. r.), of the judge, misconduct of the jury or witnesses, discovery of new evidence after trial, or where the party has been taken by surprise), the only remedy the party injured by it has (except formerly error coram nobis or robis in some few cases), is by applying to the Court for a new trial, which is in substitution for a bill of exceptions. But the Court must be satisfied that there are strong probable grounds to suppose that the merits have not been fairly and fully discussed and that the decision is not agreeable to the justice and truth of the case, before they will grant a new trial. An appeal lies under the Judicature Act, 1873, s. 19, against a refusal to grant a new trial. As to misdirection, see R. S. C., 1883, Ord. XXXIX., r. 6.

New Year's Day. See New style.

Next friend. Married women and infants may respectively sue as plaintiffs by their next friends in the manner practised in the Court of Chancery previous to the Judicature Act, and infants may in like manner defend any action by their guardian
ad litem, appointed for that purpose, or married women may, by leave of the Court or a judge, sue or defend without their husbands or a next friend, on giving such security, if any, for costs, as the Court or a judge may require. (R. S. C., 1883, Ord. XVI., r. 16.) Lunatics sue by their committee or next friend, and defend by their committee or guardian ad litem (ib. r. 17.) The next friend is usually a relation, and is responsible for the propriety of the proceedings, and primâ facie, for costs.

Next of Kin, see Kin, Distributions, Representation.

Next Presentation, is the right of presenting a clerk the next time the benefice falls vacant. This may be sold whilst the benefice is full, but not otherwise. See Simony. It is personal estate if granted apart from the advowson, which is real estate.

Nexum (Roman law), the transfer of ownership of a thing (res mancipi), absolutely, or by way of mortgage.

Nient (Norman French), nothing. Thus nient comprise (not contained), was an exception taken to a petition, because the thing prayed for was not contained in the deed or proceeding upon which the petition was founded: nient culpable (not guilty): nient dedire (to disown nothing), to suffer judgment by default: nient le fait (not his deed).

Night, the time of darkness between sunset and sunrise. Under the Larceny Act, 24 & 25 Vict. c. 96 (see Burglary), "night" is the time between 9 P.M. and 6 A.M. In the Act against poaching (9 Geo. IV., c. 69), it begins one hour after sunset, and ends one hour before sunrise. See Day.

Nihil (nothing), a return made by a sheriff, &c., when the circumstances warrant it. See Nulla Bona.

Nihil facit error nominis cum de corpore vel personâ consistat.—(A mistake in the name does not matter when there is certainty as to the thing or person.) See Falsa demonstratio &c.

Nihil (or Nil) habuit in tenementis [he (the landlord) had no interest in the tenements (demised)], a plea denying the lessor's title, formerly pleaded in an action of debt, brought by a lessor against lessee for years, or at will, where there was neither a deed between them, nor occupation by the lessee; for otherwise the lessee would have been estopped.

Nihil quod est inconvenient est lícitum.—(Nothing that is inconvenient is allowed.) E.g., contracts are void which are opposed to public policy.

Nil consensus tam contrarium est quam vis atque metus.—(Nothing is so opposed to consent as force and fear.) See Duress.

Nimia subtilitas in jure reprobatur.—(Too much subtlety in v is reprehensible.)
Nimious (Sc.), excessive, unjustifiable.

Nimium altercando veritas amittitur.—(By too much altercation truth is lost.)

Nisi. A decree, rule, or order of the court is said to be made nisi when it is not to be of force unless the party against whom it is made fails within a certain time to show cause against it, i.e., a good reason why it should not be made.

Nisi prius (unless previously). An action was formerly triable only in the court where it was brought. But it was provided by Magna Charta, that assizes of novel disseisin and mort-ancestor (which were the most common remedies of that day) should thenceforward instead of being tried at Westminster, in the superior court, be taken in their proper counties; and for this purpose justices were to be sent into every county once a year to take these assizes there. Thus the trial was to be had at Westminster only in the event of its not previously taking place in the county before the justices appointed to take the assizes.

A Nisi prius trial now means one before a single judge with a jury, either at the sittings held in London and Middlesex, or at the assizes.

Nisi prius record, was an instrument in the nature of a commission to the judges at Nisi Prius for the trial of a cause, delivered to the officer of the court in which the cause was to be tried, and containing the particulars of the claim and defence, and subsequently the postea (q. v.) and judgment. It is now dispensed with.

Nobile officium, the equitable jurisdiction of the Court of Session in Scotland.

Noctanter, an abolished writ which issued out of Chancery for the prostration of enclosures, &c.

Noles volens, whether willing or unwilling.

Molle prosequi (to be unwilling to prosecute), a proceeding in the nature of an undertaking by a plaintiff, entered on the record, to forbear to proceed in an action either altogether or partially. In a criminal prosecution the leave of the Attorney-General must be obtained any time before judgment. See now Discontinuance, Non pros.

Nomina sunt nota rerum.—(Names are the notes of things.)

Nominal damage, see Damages.

Nominal or Ostensible partner, one who has not any actual interest in the trade or business, or its profits; but by allowing his name to be used holds himself out to the world as apparently having an interest therein.

Nominate contracts, see Innominate.
Nominatim, by name; expressed one by one.

Nominating and reducing, also called *striking*, a mode of obtaining a panel of special jurors, from which to select a jury. The names are drawn by lot from the sheriff’s list until forty-eight are obtained unchallenged; each party then strikes out twelve, and the remaining twenty-four are returned as the panel. This method is now only used by special order of the court.

Nomination, the act of mentioning by name. A member of a friendly society may nominate and register on the society’s books the person to whom his interest is to go on his death. (2) The right of nomination to an advowson is the right to indicate to the patron the person whom he is to present. See Presentation.

Non-access, when a husband could not, in the course of nature, by reason of his absence, have been the father of his wife’s child, the child is a bastard. Access is presumed during wedlock; and the mother’s evidence to rebut this presumption is not admissible.

_Non accipi debent verba in demonstrationem falsam quae competunt in limitationem veram._—(Words which admit of a true _i.e._, intelligible or consistent meaning ought not to be received in a false sense or one inconsistent with the facts.)

Non-age, infancy. See Age.

_Non aliter à significacione verborum recedet oportet quam cum manifestum est alius sensisse testatorem._—(It behoves us not to depart from the literal meaning of words, unless it is evident that the testator intended some other meaning.)

Non assumpsit (*he did not promise*), a plea by way of traverse in the obsoleto action of assumpsit (_q.v._).

Non assumpsit infra sex annos (*he did not promise within six years*). This was the form of pleading the Statute of Limitations (_q.v._) in the action of assumpsit (_q.v._).

Non cepit (*he took not*), a plea in the action of replevin.

Non-claim, the omission or neglect to assert a right. See Claim.

Non compos mentis, one not of sound mind, a lunatic, idiot, or drunken person.

Non concessit (*he did not grant*), a plea which only a stranger to a deed could set up, the parties to it being estopped.

Non constat (*it is not certain; it does not follow._)

Non creditur referenti nisi constet de relato._—(No credence is given to the thing, or instrument, referring, unless the existence of that which it refers to is ascertained: _i.e._, mere reference to a prior instrument is no proof that it ever existed. But see Recital.

Non culpabilis, abbreviated, Non cul. (*not guilty*).
Non damnificatus (not injured), a plea in an action of debt on an indemnity bond.

Non debet qui plus licet, quod minus est non licere.—(It is not right that he who is allowed to do the greater should not be allowed also to do the lesser) e.g., a man having a power may in the absence of express prohibition exercise it partially. Cf. Omne majus &c.

Non decimando, De, a custom or prescription to be exempt from paying tithes. It can only be set up by spiritual persons or those claiming under them.

Non decipitur qui scit se decipi.—(He is not deceived who knows himself to be deceived.)

Non demisit (he did not demise) a plea in actions for recovery of rent.

Non detiniet, a plea in detinue (q. v.).

Non distingendo, a writ not to distrain. Obsolete.

Non est factum, a plea denying that the deed on which plaintiff sued was the defendant's deed.

Non est inventus, a sheriff's return to a writ when the defendant is not to be found in his bailiwick.

Non est regula quin fallat.—(There is no rule without an exception i.e., which may not fail.)

Non-feasance, an offence of omission.

Non intromittant clause, a clause in a charter exempting a smaller jurisdiction from being included in a larger, e.g., a borough in that of the justices of the peace for the county.

Non-issuable pleas, those upon which a decision would not determine the action upon the merits: e.g., a plea in abatement.

Non-joinder, the omission to make a person party to an action who should have been joined. See R. S. C. 1883, Ord. XVI.

Non-juror, one who (believing the Stuart family unjustly deposed) refused to swear allegiance to the sovereigns who succeeded them on the throne of England.

Non liquet (it does not appear clear), a form of verdict.

Non obstante (notwithstanding), a clause importing a license from the Crown. So far as this would go to set the prerogative above the laws the right of the Crown is denied by the Bill of Rights (q. v.).

Non obstante veredicto, Judgment, a party may move that judgment may be entered for him notwithstanding the adverse verdict of the jury.

Non omittas, the clause "that you omit not by reason of any liberty in your bailiwick," which is usually inserted in all processes addressed to sheriffs, so as to authorize them to enter the liberty in execution of the process.
If a writ do not contain a *non omittas* clause, the sheriff directs his mandate either to the lord or the bailiff of the liberty, by whom the writ is executed and returned.

*Non omne quod licet honestum est.*—(Not everything which the law allows is honourable), *e.g.*, the silent acquiescence of a vendor in the self-deception of a purchaser, which is not ground for an action for deceit or misrepresentation.

*Non possessori incumbit necessitas probandi possessiones ad se pertinerr.*—(A person in possession is not bound to prove that the possessions belong to him.) Cf: *Melior est conditio &c.*

*Non potest adduci exceptio ejus rei cuius petitur dissolutio.*—(An objection cannot be founded on the same the avoidance of which is sought), *i.e.*, one cannot impugn the legality of an instrument or proceeding, and at the same time assert that it is binding on the other party.

*Non potest probari quod probatum non relictat.*—(That may not be proved which, if proved, is immaterial.)

*Non potest rex gratiam facere cum injuriâ et damnō aliorum.*—(The king cannot confer a favour on one subject which occasions injury and loss to others.) See *Pardon*.

**Non pros.**, abbrev. for *non prossequitur, hie (the plaintiff) does not pursue his action*. This differed from a *nolle prosequi* (*q. v.*); being the result of action taken by the defendant, upon the plaintiff's failing to take the proper step at the proper time. The defendant entered a *non pros.* and signed final judgment; when the plaintiff was said to be *non prosed*. See now R. S. C. 1883, Ord. XXVII., under which the defendant may apply for dismissal of the action for want of prosecution.

*Non quod dictum est, sed quod factum est, inspicitur.*—(Regard is to be had, not to what is said, but to what is done.)

*Non refert an quis assumat suum preceptum verbis, aut rebus ipsis et factis.*—(It matters not whether a man gives his assent by his words or by his acts and deeds.)

*Non refert quid notum sit judici, si notum non sit in formâ judicii.*—(It matters not what is known to the judge, if it be not known in a judicial form), *i.e.*, if he have not judicial cognisance (*q. v.*) of it. Neither judge nor counsel may, strictly speaking, import their private knowledge of the facts into a case.

**Non-residence**, of an incumbent on his benefice without special licence from his bishop, is an offence punishable by monition and sequestration, &c. (2) A company is said to be non-resident when it has no place of business in England.

*Non sequitur (it does not follow)*, a fallacious conclusion.

**Nonsuit**, is where the plaintiff at the trial abandons his action. By the *Judicature Act*, 1875, Ord. XLI. r. 6, it has the same
effect as a judgment on the merits. The method of nonsuiting
is for the master to call thrice upon the plaintiff to come into
court or lose his writ. If he does not answer, he is nonsuited.

Non sum informatus (I am not instructed). The formal
answer of the defendant's attorney (see Warrant of Attorney),
whereby he suffered judgment by default to be entered up
against the defendant.

Non tenuit, was a plea in bar to an action for arrears of
rent, denying that the plaintiff held as he alleged.

Non user, a ceasing to exercise. A right which can be
acquired by user may be lost by non-user. (2) Neglect of official
duty, which causes forfeiture of the office.

Non videntur qui errant consensus.—(They are not considered
to consent who act under a mistake.) See Mistake.

Norroy. See Kings-at-Arms.

North Britain, Scotland.

Noscitur ex sociis, qui non cognoscitur ex se.—(He who cannot
be known from himself may be known from his associates.)

Not found. See Ignoramus.

Not guilty, in criminal proceedings, is a general denial of
the accusation, and puts the prosecutor to the proof of every
material fact alleged. See Mute. Prior to the Judicature Acts,
this plea could be also entered in an action of tort, but it is now
incompetent for a defendant to make a general denial, except
in the case of officers, &c., who are protected by special statute
in the exercise of their duty, and may plead "not guilty" by
statute. See R. S. C., 1883, Ord. XIX., r. 12.

Not proven, a verdict allowed to be given in criminal
trials in Scotland.

Notary, or Notary public, an officer who takes notes of
anything which may concern the public; he attests deeds or
writings to make them authentic in another country; makes
protests of bills of exchange, &c.

Note, a memorandum. To note a dishonoured bill is for a
notary to initial it, giving the date and the reason assigned for
its not being paid. Note of allowance, was given by a master to
a party to a cause allowing him to bring proceedings in error
(q. v.). Note of hand, see Promissory note. Notes are made by
a judge of the evidence at a trial.

Notice, the making known to a person something of which
he is or may be ignorant; so, knowledge, cognizance (q. v.).
Notice may be (a) statutory, (b) express, or actual, or (c) con-
structive or implied. Notice to an agent is, in most cases, notice
to his principal. Formal notice, is one in writing which pur-
ports on the face of it to be a notice.
Notice of action. By several statutes it is provided that no action shall be brought against persons acting in pursuance of them without notice, usually a month's.

Notice of admission, of any part of an adversary's pleading may be given by a party's pleading or otherwise in writing. See R. S. C., 1883, Ord. XXXII., r. 1.

Notice of decree or order. Where one of a class (e.g., legatees), institutes an administration action, he need not make the other members of the class parties to the action, provided that notice is given them of the decree or order directing administration. On such notice being given, they are bound by the proceedings in the action.

Notice of dishonour. The drawer of a bill of exchange must be given reasonable notice of the drawee's refusal to accept or pay; otherwise he is exonerated, unless he had no effects in the hands of the drawee at the time in question. See the Bills of Exchange Act, 1882, s. 49: Dishonour.

Notice of motion. As a rule no motion (q. e.) can be made without previous notice. See R. S. C., 1883, Ord. LIII., r. 3. Two clear days must, except by special leave, elapse between service of the notice and the day named for hearing the motion. Ib. r. 5.

Notice of trial. As soon as the pleadings are closed, a plaintiff may give notice of trial of the action, specifying the mode of trial; if he omit to do so within six weeks, the defendant may give notice of trial, or move to dismiss the action for want of prosecution. Ten, or by consent four, days' notice must be given; the latter is called short notice.

Notice of writ of summons, is given in lieu of serving the writ, when the defendant is a foreigner out of the jurisdiction. See also Substituted service.

Notice to admit. Either party may call on the other to admit any document or fact so as to save the expense of proving it at the trial; and if the other refuse or neglect to admit it, he must pay the costs of proving it, unless the judge certify at the trial that the refusal was reasonable. (R. S. C., 1883, Ord. XXXII. rr. 2—4.)

Notice to produce. If any party to an action have in his possession any document which would be evidence for the other party if produced, the latter may give him notice to produce it at the trial, and, in default of production, may give secondary evidence of it. See also Inspection, Production.

Notice to quit. Where there is a tenancy from year to year, it can only be put an end to by a notice to quit, which may
be given by either landlord or tenant, one half year previous to
the expiration of the current year of the tenancy. The only
exceptions to this rule are those arising by special agreement, by
local custom, or under the Agricultural Holdings Act, 1883,
which substitutes one year's notice in the absence of special
agreement in writing to the contrary.

Notice to third party, i.e. to one who is not a party to the
writ of summons, see R. S. C., 1883, Ord. XVI.

Notice to treat, is that given by a public body having com-
pulsory powers of purchasing land to the persons interested in
any land which it proposes to take for the purposes of its
undertaking. See the Lands Clauses Consolidation Act, 1845,
ss. 18, &c.

Noting bills of exchange, see Note.

Notorious, such matters as do not require to be proved.

Notour bankrupt (Sc.), one who has been adjudged bank-
rupt.

Novatio non prasumitur.—(Novation is not presumed).

Novation, a term borrowed from Roman law, is where the
promisee in a contract agrees to accept another person's liability
in lieu of that of the promisor; e.g., where on the transfer of a
company's business to another company, the creditors accept the
latter as their debtor, so as to release the former.

Novel disseisin, see Assize.

Novellee Constitutiones, that part of the Corpus Juris
Civilis (g. v.), which was published after the code was completed

Novelty, see Patent.

Noviter ad notitiam perventa (matters newly come to the
knowledge of a party). In ecclesiastical procedure they may be
pleaded after the pleadings are closed, or on appeal.

Novodamus, Clause of (Sc.), a fresh grant by a mesne lord
of rights and privileges to his grantee, where some flaw in the
title exists or is suspected.

Noxal action (Roman law), an action for damage done by
irrational animals.

Nudum pactum, a bare contract, i.e., one not under seal, and
made without any consideration (g. v.), upon which no action
will lie. Cf. ex nudo pacto, &c.

Nuisance, or Nusance, something noxious or offensive.

It is of two kinds: (a) private; (b) public, or common. (a)
is where one so uses his property as to damage or prejudice
another's; e.g., by noxious manufactures, or by obstructing his
lights; (b) is where he interferes thereby with the public's
enjoyment of their common rights; e.g., by obstructing a high-
way. The remedy for the latter is usually by indictment or information.

Null-tial agard or record (no such award), a plea traversing an award, or record.

Null tort, Plea of, a traverse in a real action, that no wrong was done; it was a species of the general issue.

Nulla bona (no goods), a return made by a sheriff to a fl. fa., or other writ commanding him to seize the goods of a person, when he finds no property to distress upon.

Nulla pactio effici potest ut dolus præstetur.—(I cannot effectually contract with any one that he shall charge himself with the fraud which I commit.)

Nullity of marriage. A matrimonial suit may be instituted for the purpose of obtaining a decree declaring that a marriage is null and void, on the following (among other) grounds: (a) that the parties are within the prohibited degrees of affinity or consanguinity; (b) that one of them was not a consenting party, or is impotent or otherwise unable to perform the duties of matrimony.

Nullius filius (a son of nobody, i.e. a natural child).

Nullum simele est idem nisi quatuor pedibus currit.—(No like is identical, unless it run on "all fours" (q.v.).

Nullum tempus act, see Next title.

Nullum tempus occurrit regi.—(No time can prejudice the king.) In other words, the Statutes of Limitations do not run against the Crown. But, however, the qualifications imposed on this rule by the "Nullum Tempus Act," 9 Geo. III. c. 16, and by 24 & 25 Vict. c. 62.

Nullus commodum capere potest de injuriâ suâ propriâ.—(No one can obtain an advantage by his own wrong.)

Nunc pro tunc, a proceeding taken, judgment declared, &c., now for then. Where a proceeding, &c., has been delayed by the action of the Court, or any like ground, the Court may allow it to be dated as if it had taken place or been delivered on the earlier date.

Nuncupative will, one made by word-of-mouth before two witnesses, and afterwards reduced to writing. It is only permitted to be made by soldiers and sailors in active service, and of their personal estate alone.

Nundinatio (Roman law), trafficking at fairs (mundinos).

Nunquam crescit ex post facto prateriti delicti estimatio.—(The heinousness of a past offence is never increased by a fact which has happened afterwards.)

Nunquam indebitatus, see Never indebted.
**Nuper obit (he lately died),** an obsolete writ by one co-
parceener against another, for recovery of land, on the death of
their common ancestor.

Nuptial, pertaining to, or constituting, marriage.

Nurture, Guardian by, must be either the father or mother
of the infant, where there is no other guardian (*q. v.*). Guardianship
by nurture ceases at fourteen.

**O.**

O. ni., see Oneratur.

O. S., Old style, see New style.

Oaths are (a) evidentiary, relating to past facts; (b) promissory,
relating to a future intention. The sanction of an oath
lies in the belief in a God: it may therefore be taken by others
than Christians; but not by an atheist or an infant too young to
understand its meaning. Declarations have been substituted for
most voluntary (or extra-judicial) and promissory oaths; the
latter being those taken by persons on their appointment to
certain offices; *e.g.*, the oath of allegiance. See Perjury,
Affirmation.

Obediential obligations (*Sc.*), those which arise out of the
position of the party.

Obiter dictum (*a saying by the way*), an opinion of a judge
not necessary to the judgment given of record, and consequently
of less authority.

Objection, a resistance on legal grounds, *e.g.*, to the admissi-
bility of evidence.

Oblation, a customary offering to the clergy.

Obligation, that which binds a person; usually to do or
abstain from doing a certain act. A perfect, as distinguished
from an imperfect, obligation is one which can be enforced by
the law. (2) A bond. (3) The operative part of a bond.

Obligor, he who is bound by an obligation to an obligee.

Obreption (*Sc.*), the obtaining of a gift of escheat by a false
suggestion.

Obscene, tending to corrupt or deprave.

Obvention, an oblation (*q. v.*).

Occupancy, taking possession of those things which before
did not belong to anybody. This existed as to lands in the case
of a tenant *pour autre vie* dying during the life of the *cestui que vie,*
whereupon any one might enter during the remainder of the latter’s life as general occupant. If the estate in the first instance was limited to the tenant for life and his heirs, his heir could enter as special occupant. By 1 Vict. c. 26, s. 3, a tenant *pur autre vie* may devise his estate; and if he does not, it goes as personalty to his legal representative. As to occupancy of chattels, see Waif, Derelict, Estray.

**Occupant, see Occupancy.**

**Occupation,** actual possession, use, and enjoyment of land or houses. (2) Taking temporary possession of an enemy’s country.

**Occupier, see Occupation.**

*_Odiosa et in honesta non sunt in leges praemunda._—(Odious and dishonest things are not to be presumed in law.)

**Of course.** A proceeding, petition, &c., is said to be “of course,” when the Court or its officer has no discretion to refuse it, provided the proper formalities have been observed. By rules of the Supreme Court made 1888, orders of course have been dispensed with.

**Off-going crop,** see Away-going.

**Offer.** An offer can be withdrawn at any time before it is unconditionally accepted; and must be accepted, if at all, within a reasonable time.

**Office,** a position or appointment entailing certain rights and duties. (2) Inquest of office (*q.v.*).

**Office-copy,** a transcript of a proceeding filed in the proper office of a court under the seal of such office.

**Office-found,** the finding by a jury in an inquest of office (*q.v.*) of a fact which entitles the Crown to possession.

**Office of the Judge.** In Ecclesiastical law this is said to be “promoted” when a criminal action is instituted. It means that the jurisdiction of the bishop is thereby set in motion.

**Official,** pertaining to a public charge or office; one who is attendant on a judge or magistrate. (2) In Ecclesiastical law, otherwise called *official principal,* one to whom an archbishop, bishop, &c., commits his jurisdiction; a chancellor.

**Official assignees,** persons appointed under the Bankruptcy Acts prior to 1869, to act in a capacity analogous to that now held by trustees in bankruptcy; only that the former acted in all bankruptcies, the latter in that alone in which they are appointed. See *Official receiver.*

**Official liquidator,—Referee.** See Liquidator, Referee.

**Official receiver,** see Bankrupt, and the Bankruptcy Act, 1883, ss. 66—70. His position somewhat resembles that of the official assignees under the Bankruptcy Acts prior to 1869.
Official use, an active use or trust, imposing a duty.

Official solicitor to the Court of Chancery, an officer who protects the Suior's fund (q. v.), and administers it under the direction of the Court. He sometimes acts for persons suing or defending in forma pauperis (q. v.).

Official trustee of Charity lands, the Secretary of the Charity Commissioners. In him lands belonging to an endowed charity may, if desirable, be vested.

Officiariis non faciendis or amovendis, a writ addressed to the magistrates of a corporation, requiring them not to make such a man an officer, or to put him out of the office he has, until inquiry is made of his character.

Officio, Ex, by virtue of (his) office.

Officio, Oath ex, an oath whereby a clergyman might formerly be obliged to purge himself of any criminal matter or thing alleged against him.

Officious (of a word or phrase), having a meaning, as opposed to "meaningless." (2) Uncalled for. (3) Will (Roman law), one by which a testator leaves his property to his family, according to his moral obligation.

Old style (O. S.), see New style.

Oleron, Laws of, a maritime code, compiled during the 12th century, on which almost all subsequent ones are founded.

Officium nemini debet esse damnosum.—(A duty ought to be injurious to no one, i.e., a man ought to be indemnified against any loss incurred in the execution of his duty.)

Omissio corum quae tacite insunt nihil operatur.—(The omission of those things which are understood without special mention, is of no consequence.)

Omnis majus in se continet minus.—(The greater contains the less.)

Omnis quod solo inadificatur solo cedit.—(Every thing which is built upon the soil belongs to the soil.)

Omnes licentiam habent iis, quae pro se introducta sunt, renunciare.—(Every one has the right to renounce those stipulations which have been introduced for his own benefit.)

Omnia praesumuntur contra spoliatorem.—(All things are presumed against a wrong-doer, i.e., if he wrongfully withholds evidence in his possession, it will be presumed to be adverse.)

Omnia praesumuntur rite et solemniter esse aucta donec probetur in contrarium.—(All things are presumed to have been done properly and with due formalities, until it be proved to the contrary.)

Omnes innovatio plus novitatem perturbat quam utilitate pro-
dest.—(Every innovation occasions more harm by its novelty than benefit by its utility.)

Omnis ratificatione retro-trahitur et mandato priori aequiparatur.—(Every ratification has a retrospective effect, and is equivalent to a previous request.)

Omnium contributione sarciatur quod pro omnibus datum est.—(That which is given for all should be recouped by the contribution of all.) A principle of the law of general average (q. v.).

Onerari non debet (he ought not to be burdened), an old form of commencing a pleading in certain cases.

Oneratur nisi (O. ni.). In the old system whereby sheriffs accounted to the Crown instead of to the audit commissioners as at present, the accounts were marked "O. ni.," he is to be charged unless he make sufficient discharge (habeat sufficientem execrationem).

Onerous. A lease, contract, &c., is said to be onerous when the liabilities it entails outweigh the benefits. A trustee in bankruptcy, or the official receiver, may disclaim such. See the Bankruptcy Act, 1883, ss. 54, 55.

Onerous cause (Sc.), a good and legal consideration.

Onus probandi, the burden of proof (q. v.).

Open. To open an account, is to commence dealings on account. To re-open it is to impugn it after it has been settled. See Falsify. (2) To open pleadings, is to state briefly their import; this in Common Law proceedings is always done formally by the junior counsel before the case is gone into. In Chancery there is no such preliminary, the case being opened at once by the leading counsel. (3) To open biddings, was the right which the Court of Chancery possessed prior to 1868, to put an estate up to sale again in all cases of sale by the Court, if any advance was offered on the price already accepted. By 30 & 31 Vict. 48, s. 7, this can only be done now on the ground of fraud or improper management of the sale.

Open meadow or field, is one which belongs to several owners, who share it in common for grazing purposes after each has raised a crop on his particular portion of it. Cf. Dole.

Open policy, one in which the value of the subject insured is left to be ascertained in case of loss.

Operative part, those clauses in a conveyance or other instrument which carry out the main object; especially the clause which contains the words of grant, &c.

Opposer, an officer formerly belonging to the Greenwax office, in the Exchequer.

Oppression, the abuse of his authority by a public officer for his private purposes. Cf. Extortion.
Optimus legum interpres consuetudo.—(Custom is the best
interpreter of the laws.)

Option, a power or right to choose, e.g., of purchase, whether
one will buy or not at or within a certain time. (2) On the
Stock Exchange, options to take or sell stock, &c., on a future
day, called respectively a call and a put, are commonly dealt in.
(3) When an archbishop consecrated a bishop, he had a right to
the next presentation to any living in that bishop's diocese
which he might select. This right, which was called an option,
is disused since 3 & 4 Vict. c. 113, s. 42.

Optional writ, one so called because it was in the alterna-
tive, commanding the defendant to do the thing required, or to
show cause to the contrary.

Oral, delivered by word of mouth, verbal. See Parol. All
pleadings were oral until the reign of Edward III.

Orator or Oratrix (one who prays), a petitioner, plaintiff.

Ordeal, a method of criminal trial used by the Saxons, and
long abolished. It was of four kinds, by combat, by fire, by hot
water, and by cold water.

Order, a mandate or direction (a) by an individual, (b) by a
judicial authority. (a) A bill or cheque is said to be drawn to
order when it authorises the payee to transfer, by indorsement,
the right to receive payment of it. (b) Orders of a Court of
Law are usually so called by way of distinction from judgments
(q.v.), to mean directions in summary or interlocutory proceed-
ing. The rules made under the Judicature Acts are grouped
together in the form of "Orders." See also Reference, Revivor,
Of Course, Holy Orders.

Order and Disposition. When chattels are in the posses-
sion, order, or disposition of a bankrupt, in his trade or business,
at the commencement of his bankruptcy, with the permission
of the true owner, under such circumstances that he is the re-
puted owner thereof, they pass to his trustee, except as against
the holder of a duly registered bill of sale thereof. See Bank-
rupcy Act, 1883, s. 44.

Order of discharge, an order made by a court of bank-
rupcy, the effect of which is to discharge a bankrupt from all
depts, claims, or demands, proveable under the bankruptcy. See
Discharge.

Ordinance, an Act of Parliament which has not the sanction
of all the three estates of the realm; e.g., one passed during the
Commonwealth. (2) One which is merely declaratory and not
enactive.

Ordinary, a judge, especially a bishop, who has jurisdiction
in his own right, and not by way of deputy, within his province or diocese.

Ordination, the conferring of Holy Orders (q.v.). A person cannot be ordained deacon before the age of twenty-three, or priest before twenty-four. It is performed by the imposition of the bishop's hands on the person to be ordained.

Ordnance Survey, The, of Great Britain and the Isle of Man, was first authorised in 1841, and is now continued till the end of 1885 by 38 & 39 Vict. c. 32.

Ore tenus (by word of mouth). A demurrer ore tenus, was an objection advanced for the first time on the argument of the demurrer, and not stated therein as a ground for demurring. Demurrers are now abolished. See Demurrer.

Original, is opposed to derivative or secondary. See following titles.

Original and derivative estates. An original estate is contrasted with a derivative estate, which is a particular interest carved out of the former.

Original Bill, see Bill in Chanery.

Original Charter (Sc.), is opposed to a charter of progress, which is one renewing the grant to the heirs, &c., of the person to whom the original charter was granted.

Original writ, or Original, was the mode of beginning all actions at common law. See Writ.

Ostensible, apparent or pretended. See Nominal.

Ostium Ecclesiae, see Dower.

Ouster, Oust, dispossession, to dispossess.

Ousterlemain, a writ whereby an heir of lands held of the Crown obtained possession of it on attaining his majority. (2) See Monstrans.

Outer barrister, see Utter.

Outlawry, the being put out of the protection of the law for wilfully avoiding the execution of the process of the courts. It was formally abolished by 42 & 43 Vict. c. 59, in civil proceedings, but specially retained in criminal proceedings by 33 & 34 Vict. c. 23. See Exigent, Capias utlagatum, Waived. An outlaw is civiliter mortuus, and has, therefore, no rights of property or otherwise recognised by law.

Outstanding, legal estate, one vested in some person other than the one beneficially entitled to the property in question. (2) See Term.

Outsucken (Sc.), see Sucken.

Over. A gift or limitation over means, in conveyancing, one which is to come into existence on the determination of the preceding estate.
Overdue. Any person taking a bill of exchange which is overdue, i.e., after the time for paying it has passed, takes it subject to the equities of prior holders.

Overreaching clause, in a resettlement, is one which saves the powers annexed in the original settlement to the estate of the tenants for life, when it is intended that they should not be affected by any of the provisions of the resettlement.

OVERRULE, to set aside the authority of a former decision.

OVERSEERS of the poor, persons appointed yearly in each parish to levy rates for the relief of the poor. Sometimes they, and sometimes the guardians of the poor, administer the rates. Overseer of a will was formerly a person appointed by a testator to advise the executor.

OVERMAN (Sc.), an umpire chosen by arbitrators.

OVERT, open, deliberate. See Market, Treason.

OWELTY, equality; soil of exchange or partition.

OWING, as opposed to "payable," means that which need not be paid till a future time.

OYER of a deed, was the reading of it aloud in order that defendant might be made aware of its contents.

Oyer and terminer, a commission directed to the judges and other gentlemen of the county to which it is issued, by virtue whereof they have power to hear and determine treasons, and all manner of felonies and trespasses. See Assizes.

Oysz (hear ye, pronounced oh! yes!), the introduction to any proclamation or advertisement made by the public criers in England or Scotland.

P.

Pacta privata juri publico derogare non possunt.—(Private compacts cannot derogate from public right.)

PACTUM (Roman law), an agreement. See Ex nudo pacto, &c.

PACTUM CONSTITUENS PEUCINIS (Roman law), an agreement by a person to pay his creditor.

PACTUM DE QUOTÀ LITIS (Roman law), an agreement by which a creditor promised to pay a portion of a debt difficult to recover, to a person who undertook to recover it.

Pains and penalties, Bills of, are bills to attain particular persons of treason or felony, or to inflict some particular punishment out of the course of the common law, being thus new laws passed for special purposes.
Pais, or pays, the country. Trial by pais, trial by a jury. See Conveyance, Estoppel.

Palace Court, the later stationary Court of the Marshalsea (q. v.), created by Charles I., and abolished 1849.

Palatine Courts. See Counties Palatine.

Fallio cooperire (to cover with a pall or awning), an ancient custom, where children were born out of wedlock, and their parents afterwards intermarried. It was in the nature of adoption. The children were legitimate by the civil, but not by the common law.

Palmer's Act, 19 & 20 Vict. c. 16, enabling a person accused of a crime committed out of the jurisdiction of the Central Criminal Court, to be tried in that Court.

Pandectæ. See Digest.

Panel (a little part or page), the sheriff's list of persons summoned to act as jurors at a particular sittings. (2) The list of special jurors returned for the trial of a particular action after the process of nominating and reducing. (3) (Sc.), the person accused in a criminal court.

Pannage, the mast of beech, acorns, &c., on which swine feed in the woods. (2) Money paid for the right of common of pannage.

Paper. The list of business to be transacted in each court is called the "paper," or cause list.

Paper blockade, as opposed to a good blockade, is one not maintained by a sufficient naval force to repel a real attempt to enter or get out.

Paper books, in proceedings on writ of error are copies of the proceedings delivered beforehand to the judges, together with notes of the points to be urged.

Paper office (in the palace of Whitehall), an ancient office where all the public writings, matters of state and council, and generally all the papers and dispatches that pass through the offices of the Secretaries of State, are deposited. (2) An office or room in the Court of Queen's Bench where the records belonging to that court were deposited; sometimes called Paper-mill.

Parage, equality of blood or dignity: co-heirs are said to hold by parage.

Paramount, superior. Lord paramount, is one of whom land is held by another, called the mesne lord, of whom again it is held by a third, called tenant parvænil. The Sovereign is universal lord paramount.

Paraphernalia, the personal ornaments of a married woman.
They may, unlike her separate property, be disposed of by the husband during his life; not, however, by his will.

Paravail. See Paramount.

Parcel, a part or portion of land.

Parcel, a description of property, formally set forth in a conveyance, together with the boundaries thereof, in order to its easy identification.

Parcenary, the tenure of lands by parceners. See Coparcenary.

Parco facto, De, a writ for breaking pound (q.v.).

Pardon, the remission by the Crown of a punishment. It cannot be pleaded in bar of a parliamentary impeachment. The Crown cannot pardon offences which chiefly concern private individuals. Pardon by Act of Parliament need not be pleaded like pardon by the Crown, and is therefore more beneficial.

Parens Patriae. See Sovereign.

Parent and child. Their reciprocal duties are chiefly those of maintenance; and this only where the parent or child is unable, by reason of age, &c., to provide for himself. The Married Woman's Property Act, 1882, makes a wife owning separate property equally liable with her husband for the maintenance of her children and grandchildren. See Infant, Guardian, Seduction.

Parentela (Roman law), family. De parentelâ se tollere, was to formally renounce one's kindred and family, so as to incapacitate oneself from inheriting from them.

Parenticide, one who murders a parent.

Parergon, a work on the Canons, by Ayliffe.

Pares, a person's peers or equals.

Paribus sententiss reus absolvitur.—(Where the opinions are equal, i.e., the votes or judges are equally divided, a defendant is acquitted.)

Pari passu (with equal step), equally, without preference.

Parish, the particular district or charge of a clergyman having care of souls therein. It is also a civil division, e.g., for collection of the poor-rate.

Parish officers, churchwardens, overseers, and constables.

Park, a place where wild animals of chase are kept, differing from a chase in being enclosed. A park created without grant or prescription is called nominative.

Parliament, The Imperial, consists of the Sovereign and the three estates of the realm, viz., the lords spiritual, the lords temporal, and the commons. See Houses.

Parliamentary agents, persons (usually solicitors) who
are employed to manage the business connected with the passing of private bills through Parliament.

**Parliamentary Committee**, a committee appointed by either House for the purpose of making special enquiries.

**Parol**, by word of mouth, not under seal. Pleadings when made *civē vōce* were called the *parol*; and to pray that "the parol might demur," was to ask that the action might be stayed until a certain date. See *Evidence*, and next title.

**Parol arrest**, any justice of the peace may, by word of mouth, authorise any one to arrest another who is guilty of a breach of the peace in his presence.

**Parricide**, or **Patricide**, one who kills his father.

**Pars rationabilis** (*reasonable part*), the ancient division of a man's goods at his death in equal parts, between his heirs or lineal descendants, his wife, and his legatees.

**Parson**, the minister of a parish, who has the care of souls. There are four requisites to his complete appointment: holy orders, presentation, institution, and induction (*q. v.*). See also *Appropriation, Advowson, Rector*.

**P art.** See *Party, Art, Payment, Performance, Part-owner*.

**Partibus** (*Sc.*), a note written in the margin of a summons, &c., giving the name and address of the plaintiff and defendant, and of the former's counsel and solicitor.

**Particeps criminis** (*a partner in crime*).

**Particular average.** See *Average*.

**Particular estate**, that interest which is granted or carved out of a larger estate, which then becomes an expectancy either in reversion or remainder (*q. v.*). See *Executory*.

**Particular lien**, a right of detaining a chattel from the owner, until a certain claim upon it be satisfied. See *Lien*.

**Particularity, in pleadings**, is the allegation of details.

**Particulars.** The necessity for a special order of the Court for delivery of particulars of a claim or defence is greatly diminished by the practice introduced by the Judicature Act. (*See Statement*); but in actions for infringement of patent, the plaintiff is bound to deliver with his statement of claim *particulars of the breaches* which he complains of; and the defendant may deliver *particulars of the objections* to the validity of the patent. Also in the Queen's Bench Division *particulars of demand or set off* are allowed in order to limit too general statements in the pleadings of either party; and in the County Courts, except in claims under 40s., the plaintiff must file particulars of his claim on entering his plaint.

**Particulars of Sale**, a document describing the nature of property about to be put up for sale by auction.
Partition, the act of dividing. Where land belongs to two or more joint tenants, tenants in common, co-partners or the like, each of them is entitled to have partition made, so that he may hold his share in severalty, and have it distinguished from the rest. This may be effected either voluntarily by deed of partition, if the parties are *sui juris*, or compulsorily by an action in the Chancery Division of the High Court. In certain cases the Court may, under 31 & 32 Vict. c. 40, as amended by 39 & 40 Vict. c. 17, direct a sale instead of a partition. See also the Settled Land Act, 1882, s. 3, enabling tenants for life to partition. The old writ of partition was abolished in 1833.

Partnership is the result of a contract whereby two or more persons agree to combine property or labour, or both, for the purpose of a common undertaking and the acquisition of a common profit. A partnership may be public (see *Joint Stock Company*), but the word is generally used of an association between private individuals; it may be actual, ostensible, nominal, or dormant (*q. v.*). A partnership *prima facie* determines by the death or bankruptcy of any of the partners; but both this and other general rules applicable thereto are generally modified by *articles of partnership*, i.e., an agreement entered into by the partners at the outset of their undertaking. A *partnership at will* is one the duration of which is not fixed; it may be dissolved at any time by any partner. By the Judicature Act, 1873, s. 34, this branch of law is assigned to the Chancery Division. See *Commandite*, the *Partnership (Bovill's) Act*, 1865, *Part-owner*.

Part-owners, or *Quasi-partners*, are joint-owners, tenants in common, or co-parceners, who have a distinct, although an undivided interest in the property. None of them can dispose of the whole property, or act for the others in relation thereto as partners properly so called can do, but each can only deal with his individual interest; this however, unlike a partner, he can do without the consent of the others.

*Partus sequitur ventrem.*—(The offspring follows the dam.) This maxim applies to the status of the issue of a slave by a free father, in countries where slavery is recognized.

Party, a person who takes part in a legal transaction, *e.g.*, an agreement or deed, or in a legal proceeding. Parties to an instrument are distinguished as being of the first part, second part, and so on.

Parvise (*Parvisia*—"little-go"), a moot for law-students.

Pascuage, the grazing or pasturage of cattle.

Pass, in conveyancing, to transfer or be transferred. (2) To allow, *e.g.*, minutes of an order, or accounts, by the proper officer.
Passage, a right of way over water. (2) See Court of Passage.

Passive debt, a debt upon which no interest is payable, as distinguished from an active debt.

Passive trust, a trust as to which the trustee has no active duty to perform. See Bare trustee.

Passive use, a permissive use (q. v.).

Passport, a license for safe passage from one place to another.

Pasture, the right of grazing cattle. (2) Land employed for grazing purposes. (1) Includes both the herbage and the leaves, mast, &c., of trees. It may be either several, i.e., excluding the owner’s right; common, i.e., exercised together with him; or seignioral.

Patent, patent-right, or letters-patent, the exclusive privilege granted by the Crown to the true and first inventor of a new and useful manufacture of making articles according to his invention. A patent cannot be granted in the first instance for more than fourteen years, but may be extended by the Privy Council for a further fourteen years where it appears that the inventor has not reaped a fair profit from it. Want of novelty is a fatal objection to a patent; i.e., if it is not new and original. A draft patent was formerly called a bill, and was prepared in the Attorney-General’s Patent Bill Office. Since 1880 the warrant which has been substituted is prepared by the clerk of the Crown in Chancery. There are two patent offices, that of the Commissioners of Patents, and the Great Seal Patent Office. See Letters Patent. The Patents, Designs, and Trade Marks Act, 1883, has consolidated the law as to patents, and inter alia has reduced the fees payable on taking out a patent, and abolished the proceeding by actio facias to repeal a patent, substituting a petition therefor.

Patent-rolls, registers in which letters-patent are recorded.

Paterfamilias (Roman law), one who is sui juris and the head of a family.

Patricia potestas (Roman law), the power of a paterfamilias over his family.

Patrimony, an hereditary estate or right.

Patron, of a living, the owner of the advowson (q. v.).

Pauper, a person receiving poor-law relief. (2) One who sues or defends in formâ pauperis (q. v.).

Pawn or Pledge, a bailment of goods by a debtor to his creditor, to be kept till the debt is discharged. It differs from a mortgage in that it passes only a special property in the thing
pledged, and also the right of the pledgee, as a rule, ceases if he
has not possession of the pledge.

Pawnbroker, one whose business it is to lend money on
pledge. See 35 & 36 Vict. c. 93.

Payable, generally means payable at once. See Owing.

Payee, one to whom a promissory note, cheque, or bill of
exchange is made payable; he must be named or otherwise
indicated therein with sufficient certainty. There may be joint
or alternative payees named. If he is a non-existing person, the
instrument may be treated as payable to bearer.

Paymaster-General, the officer who pays the various sums
required by the different State departments. By 35 & 36 Vict.
c. 44, the duties of the Accountant-General of the Court of
Chancery were transferred to him.

Payment, of money due, may be in fact or at law (e.g., by
set-off or allowance); absolute, which makes complete satisfaction
of the debt, or conditional, as in some cases, by acceptance of a
negotiable security, which is afterwards dishonoured. Part
payment makes it unnecessary within the Statute of Frauds to
make a note in writing of a sale of goods; it also revives a debt
so as to bar the operation of the Statute of Limitations. Pay-
ment for honour is where a person not liable pays a bill of
exchange for the credit of some person who is liable. See
Appropriation.

Payment into Court, may be either pendente lite, to bide
the result of the action; or, (2) by a person desirous of relieving
himself from the responsibility of administering a fund in his
hands as trustee for others; or, (3) by a defendant who admits
the plaintiff's claim to the extent only of the amount paid in and
disputes the rest.

Peace, the law relating to public order. See Clerk, Justices.

Peace, Bill of, a form of remedy (prior to the Judicature
Act) against unnecessary litigation, adopted where a right had to
be enforced by or against a number of persons. The Courts of
Equity interfered in such a case by injunction to quiet the
possession of the applicant.

Peace, Commission of the, a special commission under
the great seal, appointing justices of the peace. It is one of the
authorities by virtue of which the judges sit upon circuit.

Peculiar, a particular parish or church that has jurisdiction
within itself, and is exempt from that of the ordinary. Royal
peculiars are the Sovereign's free chapels. The Dean and Chapter
of Westminster are a royal peculiar (22 Ch. D. 327).

Peculiars, Court of, a branch of, and annexed to, the Court
of Arches.
Pecuniary legacy, a testamentary gift of money.
Pedigree, lineage, genealogy. See Hearsay.
Peer, an equal. It is a maxim of English law that a man should be tried by his peers or equals. (2) A member of the House of Lords.
Paine forte et dure, the ancient method of forcing an accused person to plead, by putting him to the torture. See Mute.
Pejoration, deterioration.
Pelfe or Pelfre, booty. (2) The personal effects of a felon.
Pells, Clerk of the, an abolished office of the Exchequer.
Penal action, an action for a statutory penalty.
Penal irritancy (Sc.), forfeiture by way of penalty.
Penal laws or statutes, those laws which prohibit an act, and impose a penalty for the commission of it.
Penal servitude, a punishment which, under 16 & 17 Vict. c. 99, has superseded transportation. It ranges in duration from five years to the life of the convict.
Penalty. Where a sum of money is reserved on an agreement, to be paid in case of the non-performance of such agreement, it is generally (though not always) to be considered as a penalty, the legal operation of which is, not to create a forfeiture of that entire sum, but only to cover the actual damages occasioned by the breach of contract. Similarly where the payment of a small sum is secured by an undertaking to pay a much larger sum in case of default, as in the case of a bond. See Liquidated. (2) A sum of money payable as compensation, or by way of punishment. See Penal laws.
Penance, an ecclesiastical punishment which affects the body of the penitent, by which he is obliged to give public satisfaction by confession, or otherwise, to the church. It is now rarely enforced.
Pendente lite (during pendency of litigation). See Administration, Alimony.
Pendente lite nihil innovetur.—(During a litigation no change in the position of things, or of the parties, can be made.)
Pension. A pension given to a person liable to be called out for active service is not liable to be attached by his creditors; it is otherwise with one granted in respect of past services.
Peppercorn, see Rent.
Per. To come in, or to have title, in the per was to claim as heir or assign through the person last entitled to an estate. To come in in the post was to claim by a paramount and prior title, as the lord does by escheat. See also Writ of Entry, Post.
Per capita, by the number of individuals, opposed to per stirpes, by the number of families. See Representation.

Per eundem, by (or from the mouth of) the same (judge).

Per incuriam, through want of care.

Per my et per tout (by half and by whole). See Joint.

Per pais, Trial, trial by the country, i.e. by jury.

Per quæ Servitìa, a real action by the grantee on a fine of a manor or seigniory to compel the tenants to attorn to him. Abolished 1883.

Per quod, whereby. This was the word introducing the allegation of special damages; e.g., per quod consortium or servitium, amisit (he lost the benefit of her society, or services), in actions by a husband or master for injury to his wife, or seduction (q. v.) of his servant.

Per se, by itself (alone).

Per stirpes, see Per capita.

Per totam curiam, by (the unanimous judgment of) the whole court.

Per verba de præsenti,—futuro, see Marriage.

Perambulation, a walking of boundaries.

Perception, of profits, a taking or receiving.

Perduellion, treason.

Perdurable, of an estate, lasting long, or for ever.

Peremption, nonsuit; loss, by acquiescence or the like, of the right of appeal.

Peremptory, final, admitting of no excuse for non-performance; e.g., an order, mandamus. See Challenge.

Perfect, of a trust, executed (q. v.). Bail conditionally accepted is said to be perfected after justification. See Justify.

Performance, of a contract or condition, is the doing of what the contract or condition imposes an obligation on one to do, whereby the person performing is relieved from any further liability thereunder. Part performance by one party to a contract prevents the other party from raising a plea of informality in the contract, e.g., under the Statute of Frauds, in cases where it would be inequitable to allow the statute to be raised; e.g., where it would be impossible to restore the parties to their original position. See Specific. This doctrine of part performance only applies to contracts relating to land (11 Q. B. D. 128).

Perjury, when a lawful oath is administered by one that has authority, in a judicial proceeding, and the witness swears falsely in a matter material to the issue. Two witnesses are necessary to obtain a conviction for perjury, as in the case of treason.

Permissive or passive use, one resorted to prior to the
Statute of Uses, to evade the law of mortmain, forfeiture, and the like.

Permissive waste, the neglect to repair. See Waste.

Pernancy, receipt of rents and profits; the person receiving was called a pernor.

Perpetual curate, see Curate.

Perpetual injunction, an injunction which finally disposes of the matter in dispute, and is indefinite in point of time.

Perpetuating testimony. When evidence is likely to be lost, by reason of a witness being old, or going abroad before the matter to which it relates can be judicially investigated, the Court of Chancery will take such evidence by anticipation, in order to prevent a failure of justice. As to evidence of legitimacy, see 21 & 22 Vict. c. 93.

Perpetuity, is the tying-up or disposing of property so that it never becomes at the absolute disposal of any person or number of persons. This the policy of the law will not allow; hence the rule against perpetuities, which forbids any executory interest to come into being later than a life or lives in being and 21 years after, allowing for gestation where it exists. Estates tail are an apparent exception. See also Mortmain. Some grants by Parliament for public services have been made inalienable. See Remoteness.

Person or Persona, anybody capable of having and becoming subject to rights; a human being, also called a natural person. (2) An artificial person or corporation (q. v.).

Persona designata, one described as an individual, as distinguished from one described merely as a member of a class.

Personal, appertaining to a person, or to the person. A personal action, in the sense of the maxim, Actio personalis moritur cum personâ, means an action for injury to the person, by assault, slander, &c. See Action, and following titles.

Personal Acts of Parliament. Statutes confined to particular persons, e.g., authorizing a person to change his name.

Personal property, or Personality, goods and chattels (q. v.). Impure or mixed personality includes (inter alia) terms of years, land directed to be converted into money, and money secured on mortgage. All such are forbidden by the Mortmain Act (q. v.) to be left to charitable uses by will, as "savouring of reaaly." Pure personality is all which is not impure. Personality goes on a man's death to his executors or administrators, who are called personal representatives, and on intestacy is divisible amongst his next of kin.

Personal rights, the right of personal security, comprising those of life, limb, reputation, and liberty.
Personality, said of an action when it was brought against
the right person. Obsolete.

Personality of laws. All laws concerning the condition,
state, and capacity of persons, as distinguished from the reality
of laws, which means all laws concerning property or things.
Thus the jurists by a real statute signify one whose applica-
tion is restricted to the country where the property in question
is situate.

Personation, the offence of pretending to be another
person, whether existent or fictitious.

Perverse verdict, a verdict whereby the jury refuse to follow
the direction of the judge on a point of law.

Pessimi exempli, of (i.e., setting) the worst example.

Petit, see Cape, Jury, Petty.

Petition, a supplication made by an inferior to a superior,
and especially to one having jurisdiction. The subject has a
right to petition the Crown or the two Houses of Parliament.
See Tumultuous. A petition in the Chancery Division is a written
statement addressed to a judge setting forth the relief needed,
and the grounds on which the prayer for relief is based. It
may be either summary, or statutory, or in an action. All
matrimonial suits and bankruptcy and lunacy proceedings begin
by a petition. See Bankrupt. Petitions against the election of
a member of Parliament are addressed to the Queen's Bench
Division.

Petition of right, one of the methods of obtaining posses-
sion or restitution from the Crown of either real or personal
property. (2) The statute 3 Car. I. c. 1, a parliamentary decla-
rations of the liberties of the people, assented to by Charles I. in
the beginning of his reign. Its chief provisions were the denial
of any right in the Crown to tax or to imprison arbitrarily. See
Benevolences.

Petitioning creditor, one who applies for an adjudication
in bankruptcy against his debtor.

Petitory actions (Sc.), those in which the plaintiff seeks
for a decree that something should be done by the defendant.

Petty-bag Office, an office formerly belonging to the com-
mon law jurisdiction of the Court of Chancery, and now trans-
ferred to the High Court. In it are transacted matters relating
to solicitors, and out of it issue all original writs and certain
commissions. See Master of the Rolls, Chancery.

Petty constables, inferior officers in every town and parish,
subordinate to the high constable of the hundred.

Petty jury, see Jury.
**Petty larceny**, stealing of goods to the value of a shilling or under. See *Larceny*.

**Petty sessions**, sittings of one or two justices of the peace, who are empowered by statute to try in a summary way, and without jury, certain minor offences.

**Petty sequestrants**, is holding lands of the Crown by the service of annually rendering some warlike weapon or implement.

**Petty treason**, treason of a lesser kind, as if a servant killed his master, or a wife her husband. These are now only murder, by 9 Geo. IV. c. 31.

**Pew.** The exclusive right to a pew or seat in a parish church can exist only by a faculty or by prescription. All other pews belong to the parish.

**Picketing**, is the offence of posting persons outside a manufactory, or place of business, for the purpose of molesting or intimidating workmen engaged there.

**Pilotage, Compulsory**, is where every ship in a certain water is obliged by law to employ a qualified pilot, *i.e.*, one licensed by a pilotage authority, if he offers his services.

**Pin-money**, a yearly allowance settled on a woman before marriage to defray her personal expenses.

**Piracy**, the commission on the sea of such acts of robbery and violence as would amount on land to felony. See *Capture*.

(2) Infringement of copyright.

**Piscary, Common of**, see *Fishery*.

**Pis, Trial of the**, the testing of coin, which takes place before a jury of the Goldsmith's Company. See 33 & 34 Vict. c. 10, ss. 12, 13.

**Placita Communia**, the common pleas. (2) The Court where they were tried. (3) Penalties.

**Plaint**, the statement in writing of a cause of action, with which all actions in a County Court begin, and upon which a summons is issued. A *plaint note* is then given to the plaintiff by the registrar. *Customary plaints* in the abolished real actions were those brought in the manor court by or against a copyholder in respect of his land.

**Plaintiff**, one who brings an action.

**Plea**, the formal answer of a defendant to the plaintiff's declaration in an action. See now *Statement of Defence*. Pleas were (a) dilatory, *i.e.*, either to the jurisdiction, or in suspension of the action, or in abatement, by showing some formal defect in the indictment (these last are no longer in use); (b) peremptory, *i.e.*, in bar of the action; *e.g.* the pleas of not guilty and *auterfois acquit*; (c) declinatory (*q. v.*). (2) Any pleading in the Ecclesiastical Courts. (3) A legal proceeding; hence (a)
pleas of the Crown, relating to criminal prosecutions; (b) common pleas, civil causes.

Plead, to answer the opponent's pleading in an action. (2) To make a plea, e.g., of not guilty. (3) To argue a cause in court. (4) To plead over is (a) where a prisoner after pleading specially enters also the general plea of not guilty; (b) to answer a pleading which was demurrable, or otherwise open to exception.

Pleader, one who draws pleadings. See Special.

Pleadings, the proceedings from the statement of claim to issue joined, i.e., the opposing statements of the parties, which are delivered (in writing or print) alternately by one party to the other until the issues raised appear with sufficient certainty, when issue is joined. The Statement (q. v.) of Claim if disputed by the defendant is answered by a Statement of Defence; this in its turn by a Reply. This, if not a mere joinder of issue, is followed by a Rejoinder, Surrejoinder, Rebutter, and Surrebutter in succession. A Statement of Defence may take the form of a counter-claim (q. v.). No pleading subsequent to a Reply can be made except by leave, unless it be a mere joinder of issue, by which in every case the pleadings are "closed." Prior to the Judicature Act, the common law terms for the first three stages were Declaration, Plea, and Replication, the rest being the same as at present: at Equity they were called Bill of Complaint, Plea or Answer, and Replication. If a plaintiff make default in delivering his Statement of Claim, i.e., fail to deliver it within the time allowed, the defendant may move to dismiss the action for want of prosecution; and if a defendant make default in delivering his defence the plaintiff may in certain cases enter judgment against him as if he admitted the claim (see R. S. C., 1883, Ord. xxvii.). If any person makes default in delivering a subsequent pleading, the pleadings are taken to be closed, and the statements in the previous pleading to be admitted. In Ecclesiastical cases the pleadings are (a) in criminal causes: (i.) the articles; (ii.) the issue or litis contestatio, which is affirmative or negative; the latter is then followed by a responsive allegation, and this by a counter-allegation. The plaintiff is called the Promoter, and the defendant the Respondent. (b) In plenary causes: (i.) the libel, and so forth as above. In divorce and matrimonial causes the pleadings are Petition, Answer, Reply, and so on.

Pledge, a thing put to pawn (q. v.) with a pledgee as security for payment of a debt, or performance of an obligation. (2) A surety. (3) Pledges to restore, in proceedings in foreign attachment, are two householders, who act as sureties for the plaintiff that he will, if so adjudged, restore the defendant's goods.
Plena probatio (Rom. law), proof, by two witnesses.
Plenary, is said of a benefice when "full," i.e., not vacant.
Plenary, full, conclusive. (2) Causes, suits for dilapidations,
church sittings, and tithes. See Cause.
Plene administravit (he has fully administered), the
defence of an executor or administrator when sued for a debt of
his testator which he has no assets to satisfy; if he has assets,
but insufficient, he pleads plene administravit præter, i.e., except
what he specifies.
Plight, state. See Affidavit.
Plough-bote. See Bote, Estorcrs.
Plough-land. See Hide.
Pluralist, a person who holds more than one benefice with
cure of souls. By various statutes against pluralities this is for-
bidden, except in certain cases or by special dispensation.
Pluries (often), a writ that issues in the third instance, after
the first and the alias have been ineffectual.
Plus peccat auctor quam actor.—(The instigator of a crime
offends more than the doer of it.)
Plus-petitio, or Pluris-petitio (Roman and Sc. law), when
a plaintiff includes in his claim (in the intentio of the formula)
more than his due.
Poaching, unlawfully taking or destroying game (q. v.). See
Night.
Pocket-defendant, a defendant acting collusively with the
plaintiff.
Pocket-judgment, a statute-merchant, which was enforce-
able at any time after non-payment on the day assigned, without
further proceedings.
Pocket-Sheriff. When the sovereign appoints a person sheriff
who is not one of the three nominated, he is so called.
Poinding (Sc.), the taking of goods, &c., in execution, or by
way of distress. It is either real or personal, the former being
called poinding of the ground, i.e., of effects on the land for pay-
ment of a debt attaching to the land (debitum fundi). (2) The
detention of cattle found trespassing: cf. Pound.
Police. See Constables. Police supervision, to which habitual
criminals are often subjected, is the liability to notify their place
of residence, and to report themselves once a month to the chief
police officer of the district.
Policies of Insurance, Court of, one created under 43 Eliz.
c. 12, for trying causes concerning policies. In Blackstone's time
(1765) it had long been disused.
Policy, of a statute, is its object or intention; this is
sometimes distinguished from the letter of it. Public policy. Certain acts and contracts, e.g., those in restraint of marriage, are said to be against public policy, as being prejudicial to the general interest. (2) See Insurance. A maritime (or marine) policy may be open or valued (q. v.).

Poll, the head, whence poll-tax, a capitation tax, to poll or take votes, &c.; and see Challenge. (2) See Deed-poll.

Pollicitatio (Roman law), a promise before it is accepted.

Polyandry, the state of a woman who has several husbands.

Polygamy, plurality of wives or husbands.

Pone, an obsolete writ to remove suits which were before the sheriff by writ of justices.

Pone per vadium, a writ to force a defendant to appear for trial by exacting sureties from him. Obsolete.

Pontage, duty paid for crossing, or for repair of, a bridge.

Poor-laws, that part of the law beginning with 27 Hen. VIII. c. 28, which deals with the public relief of the poor. See Overseer, Settlement. The Local Government Board controls, since 1871, the general management of the poor.

Popular action, one brought by one of the public to recover some penalty given by statute to any one who chooses to sue for it. See Qui tam.

Porrecting, producing for examination or taxation, as porrecting a bill of costs, by a proctor.

Port, a harbour, and especially one where customs are levied.

No one may land customizable goods, except at a port.

Porterage, a kind of duty formerly paid at the custom-house to those who attended the water-side, and belonged to the package-office. (2) The charge made for sending parcels.

Porteur of a bill (Sc.), the holder or payee.

Portion, that part of a person's estate which is given or left to a child. It usually takes the form of a sum of money given to younger children on attaining twenty-one or marrying. See Hotchpot, Satisfaction. There are two ways of raising portions, one by sale or mortgage, the other by perception of profits.

Positive, actual, direct, as opposed to negative; e.g., evidence. (2) Laid down, made by men; e.g., law, as opposed to the natural law. See Mala.

Posse, a possibility. A thing is said to be in posse when it may possibly exist; in esse when it actually exists.

Posse comitatus, the "power of a county," which includes all able-bodied men above the age of fifteen therein, except peers and clergymen.

Possessio (Roman law), detention, which by means of usu-capio (length of possession) became actual ownership.
Possession, the state of owning or having a thing in one's own power or control, coupled with the intention of exercising such control, evidenced by acts of ownership. It may be (a) actual; (b) apparent, as where land descends to the heir of a disseisor; (c) in law, i.e., unaccompanied by actual possession; (d) naked, i.e., without colour of right. As to apparent possession under the bankruptcy law, see Order and disposition, Reputed ownership. If a mortgagee goes into possession of the mortgaged property under his security, he is liable to account to the mortgagor for all rents and profits which, but for his wilful default, he might have received. Possession must be adverse, i.e., inconsistent with the rights of the true owner, in order that a title may be gained by the person in possession under the Statute of Limitations. Possession of stolen goods raises a presumption of larceny against the holder. Possession may be without enjoyment, e.g., that of a bailee. The maxim "Possession is nintenths of the law," means that every claimant can only succeed by the strength of his own title, and therefore the weakness of his opponent's title avails him nothing if the latter is in possession. (2) Seisin (q. r.). (3) Occupation, e.g., by a lessee. (4) The thing possessed.

Possession money, a sheriff's officer's fee for keeping possession of property under a writ of execution. See Poundage.

Possession, Writ of, the process of execution in an action for the recovery or possession of land. See R. S. C., 1883, Ord. xlvii.

Possessory actions, those relating to, or arising out of, the possession of land.

Possibilitas, an act wilfully done, as impossibilitas is a thing done against the will.

Possibility, a future event which may or may not happen. (2) An interest depending on the occurrence of an uncertain event. Thus a possibility may be bare, or coupled with an interest. A common or near possibility was formerly distinguished from a double or remote one. See next title.

Possibility on a possibility, a "remote possibility," as if a remainder be limited in particular to A.'s son John; if A. had no son of that name at the time the contingent remainder was created, the limitation was held to be void, as depending on the double possibility that he should both have a son, and that the son should be called by that particular name.

Post, after; occurring in a book, it refers to a later page or line. Action, or Writ of Entry, in the post, a writ given by the Statute of Marlbridge, 52 Hen. III. c. 30, in cases where the number of alienations or descents between the defendant and the original disseisor exceeded two. Abolished 1883.
Post-dating. A bill, note, or cheque may be post-dated, i.e., dated as of a later date than the day they are made. See 45 & 46 Vict. c. 61, s. 13.

Post-dissaisin, a writ for him who having recovered lands by novel dissaisin, was again dispossessed by the former disseisor.

Postea, was formerly a statement endorsed on the record of the proceedings in a common law action. Now an entry is made by the associate of the findings of the jury, and of the directions and certificates given by the judge, in a book kept for the purpose.

Post-entry, a subsequent or additional entry of goods at a custom house to make up the original entry to the proper total.

Post litem motam. See Lís.

Post-mortem (after death), as a post-mortem examination.

Post-natus (born after), the second son; (2) one born in Scotland after the accession of James I., and therefore not an alien in England.

Post-nuptial settlement, one made after marriage (q. v.).

Post-obit bond. A bond, conditioned to be void on the payment by the obligor of a sum of money upon the death of another person.

Posthumous child, a child born after its father's death; or taken out of the body of a dead mother.

Postliminium, the return of a person to his own country, after having sojourned abroad. In international law, the rule of postliminy is that whereby persons or things captured by an enemy are restored to their former position on being recaptured.

Postman, a barrister in the old Court of Exchequer who had a right of precedence in motions. See Tub-man.

Postponement of trial, may be applied for on sufficient grounds, such as the absence of an important witness. See R. 8. C., 1883, Ord. xxxvi., r. 34.

Postreco-geniture, the custom of Borough English (q. v.).

Postulatio (Roman law), the first act in a criminal proceeding.

Potior est conditio (defendantis, or) possidentis.—(The condition of one (defending or) possessing is the better.) See Possession.

Potwallers or Potwallopers (wallop, to boil), persons who cooked their own food, i.e., householders who, in some boroughs, were given a vote on this qualification.

Pound, an enclosure in which cattle taken damage feasant, or as distress, are placed; it may be overt, i.e., open to the sky, or covert. (2) A place where goods distrained are kept; if they are liable to damage from exposure, they must be placed in a pound covert.

Poundage, the fee of a sheriff's officer; it is calculated ɹ
the rate of 1s. in the pound if the sum levied does not exceed £100, and 6d. in the pound above that sum. (2) Duty formerly levied by the Crown, with consent of Parliament, on all imported merchandise except wines (as to which see Prisage) at the rate of 12d. in the pound. See Customs.

Pound-breach, breaking open a pound to take cattle; it is an indictable offence.

Pourparty, to divide the lands which fall to parasites.

Pourpresture, anything done to the nuisance or hurt of the Queen's demesnes, or of a highway, &c., by enclosure or building. It is more usually called a common or public nuisance, but was originally an invasion of the rights of the Crown.

Poursuivant, a king's messenger; those employed in martial causes were called Poursuivants-at-Arms. The four poursuivants in the Herald's Office are called Rouge Croix, Blue Mantle, Rouge Dragon, and Portcullis.

Power, an authority from the Crown, Parliament, &c., for a public purpose, which is called a public power. (2) An authority which one person gives to another. This is called a private power, and may either authorise the donee to do something on his own behalf, or to act for the donor, especially in matters involving legal formalities, such as the execution of a deed (see Attorney, Execution), or on behalf of the donor's estate, e.g., in the capacity of trustee or executor. Such latter powers differ from trusts in that they are discretionary, and many of them are annexed by statute to those offices. Powers of appointment (q. v.) may be (a) appendant or appurtenant, (b) in gross, or (c) collateral (q. v.). They may also be (a) general or absolute, or (b) limited. A mixed power is one which is neither exclusive nor distributive, but enables the donee either to give the whole to one member of a class, or to apportion it amongst such members as he may select.

Poyning's Act, or Statute of Drogheda, an act of parliament made in Ireland, 10 Hen. VII. c. 22, A.D. 1495, whereby all general statutes before then made in England were declared of force in Ireland; which, before that time, they were not. (2) 10 Hen. VII. c. 4 (Irish), whereby bills could not be introduced into the Irish Parliament until they had been certified to, and approved by, the Sovereign of England. Repealed by 21 & 22 Geo. III. c. 47 (Irish).

Practice, that part of the law which regulates the conduct of legal proceedings. (2) See Bail Court. (2) As to corrupt and illegal practices, see the Act of 1883, c. 51.

Præcipe (command), a slip of paper upon which the parti-
cullars of a writ which a person wishes to have issued are written; it is lodged in the office out of which the required writ is to be issued. See Fine. (2) An original writ, now abolished, commanding the defendant to do a certain thing, or show cause to the contrary.

**Precipe in capite**, a writ out of Chancery for a tenant holding of the Crown *in capite*, viz., in chief.

**Precipe, Tenant to the**, the person to whom a tenant in tail seeking to bar the entail by a recovery with double voucher granted a freehold estate in the lands in question. See Recovery.

**Preadial**, see Tithe.

**Prædium** (Roman law), an estate; lands in the provinces. *Pradia volantia*, heavy articles of furniture which ranked as immoveables. *Pradium dominans*, an estate to which a servitude is due; the ruling estate, as opposed to *prædium serviens*.

**Præfine**, the fee paid on suing out the writ of covenant, on levying fines, before the fine was passed.

**Præmunire** [for præmoneri, Lat., to be forewarned], the offence of introducing a foreign power into this land (notably that of the Pope) by paying obedience to its process here. The early statutes of *præmunire* were directed entirely against papal usurpation, 16 Ric. II. c. 5, still unrepaeled, being the chief; but several other offences against the authority of the sovereign were since included under this head. The punishment was forfeiture of property, and to be put out of the protection of the Crown; but it is now obsolete.

**Præpositura** (Sc.), the entrusting of a wife with authority to transact certain business on behalf of her husband, and to bind him by her contracts. A wife is impliedly *praesopita negotiiis* for the purpose of managing her husband’s household affairs.

**Præpositus**, an officer of a hundred. (2) The person from whom descent is to be traced.

*Præstat cautela quam medela.*—(Caution, or prevention, is better than cure.)

**Preamble**, introduction, preface. (2) The introduction of an act of parliament, which sets forth its intent, and the mischiefs to be remedied. If a committee of either House sitting on a private bill find the preamble “not proven,” the bill is rejected.

**Pre-audience**, the right to be heard before another in a court of law, in matters, such as motions, which are not set down in order on the paper of the day. The Attorney-General has the first right. See Postman.

**Prebend**, a stipend granted to a prebendary in a cathedral church, in consideration of his officiating therein.
Precario, held by permission.

Precarium (Roman law), a form of permissive occupancy, the duration of which depended on the owner's will. It was an innominate contract.

Precatory words, in a will, such as "desire," "hope." "trust," create an implied trust, unless the trust is one which the court is unable to enforce.

Precedence, the right to go before another. A patent of precedence is occasionally granted by the Crown to a barrister as a mark of distinction, giving him certain rights of precedence and pre-audience.

Precedent condition, one which delays the vesting or enlargement of an estate or right until a specified event has happened. See Condition, Subsequent.

Precedents, previous decisions of the court, which should always be followed in similar cases by courts of co-ordinate authority. Precedents in conveyancing are specimens selected by experienced conveyancers as a guide for drawing similar instruments.

Precept, a command given by a person in authority or public officer to another, as by a judge to a sheriff, or by a bishop to an archdeacon (see Induction). (2) A provocation whereby one incites another to commit a felony.

Precinct, a constable's district. (2) The neighbourhood of a palace or court.

Precognition (Sc.), the heads or "proof" of the preliminary examination out of court of a witness.

Pre-contract, a prior contract to marry. This was formerly a canonical impediment to a marriage with any other person.

Predecessor, one who precedes another; the correlative to "successor" as ancestor is to "heir."

Pre-emption, the right to purchase property before or in preference to any other person, the right of "first offer." It is given by statute to the owner of land compulsorily taken by a company, in case any land so taken prove to be superfluous, i.e., unnecessary for the purposes of their undertaking. (2) In international law it is the right to buy at a fair price in time of war any materials, not being contraband of war (see Confiscation), entering the ports of the country exercising the right, and which would otherwise fall into the hands of the enemy. (3) A right of the royal purveyor, now abolished.

Preference, Fraudulent, is any attempt by a person unable to pay his debts as they become due to favour one creditor at the expense of the others. By the Bankruptcy Act, 1883, s. 48,
this is prevented by declaring fraudulent and void, *inter alia*, any transfer of or charge on property of the debtor if he becomes bankrupt within three months of the date thereof.

**Preference shares**, in a company, are those which have priority, as to payment of dividends up to a fixed amount, over the ordinary shares.

**Pregnancy**, see *Jury of Matrons*.

**Prejudice, Without.** Overtures and communications between opposing parties are often made “without prejudice,” so that if the negotiation fails, nothing that has passed in the course of it can be taken advantage of by the other party, or brought as evidence against the person making the offer.

**Preliminary Act**, a document containing particulars of a collision between vessels, which has as a rule to be drawn up and filed (after being sealed up) by the solicitor for each side in actions for damages by such collision.

**Premises**, that which has been already stated. (2) Property already described in an instrument. (3) Houses or lands. (4) That part of a deed which precedes the *habendum*.

**Premium**, a lump sum or fine sometimes paid to a lessor by a lessee in consideration for the giving of the lease. (2) See *Insurance*.

**Prender or Prendre**, see *Profit*.

**Prepense**, aforesight. See *Malice*.

**Prerogative**, the exceptional powers and privileges of the Crown (*q.e.*). See *Sovereign, Multum tempus &c.*, *Civil List, Escheat*.

**Prerogative Court**, an ecclesiastical court of each of the English Archbishops, the appeal from which is to the Privy Council. Their testamentary jurisdiction was transferred to the Probate Court in 1857.

**Prerogative writs**, are those the issue of which is discretionary with the court, as opposed to *Writs of right* so called. They are the writs of *procedendo, mandamus, prohibition, quo warranto, habeas corpus* and *certiorari*; and are only granted on proper cause shown.

**Prescribe**, to lay down, *c. g.*, rules. (2) To claim by prescription.

**Prescription** (*Usucapio*, Roman law), the gaining of a right or title by lapse of time. It is either (*a*) negative, so called because the title given thereby arose originally from the real owner being barred of his remedy to recover the land in question; or (*b*) positive, which unlike (*a*), relates to incorporeal hereditaments, and originated at common law from immemorial or long usage only; it being presumed that there had originally been r
grant which had in the interval been lost. (b) is sub-divided into personal prescription, which attaches to a person by right of his own or his ancestors' enjoyment, and prescription in a que estate, which attaches to a particular estate and its owners in fee for the time being. Positive prescription only arises if the hereditaments have been enjoyed peaceably, without interruption, openly, and as of right (ne c vi. nec clam, nec precario). By the Prescription Act, 2 & 3 Wm. IV. c. 71, the period of prescription which was originally "time out of mind" (see Memory) was limited in certain cases to forty, thirty, and twenty years respectively. Corporations by prescription are those which have existed beyond the memory of man, and are therefore looked upon in law as well created, such as the city of London. By the Scotch law shorter terms, e. g., the sexennial and triennial (called the lesser) prescriptions exist, analogous to the English limitation of actions.

Presentation, of a bill of exchange, cheque, or note (also called presentation), is to tender it for acceptance or payment, as the case may be. (2) Of a clergyman, is to offer him to the bishop for institution to a benefice. This is done by the owner of the advowson. It must be in writing, but does not require a deed or stamp.

Presentation, the report by a grand jury of an offence brought to their notice; an inquisition of office. (2) The report made by the homage (q. v.) at a manor court of any alienation, &c., within the manor. It is no longer necessary.

Presents, These, is the term by which a deed refers to itself.
Presses (Sc.), a president or chairman.
Prestation (Sc.), payment, performance.

Presumption, a conclusion or inference of law or fact drawn from the proved existence of some other fact. Presumptions may be either (a) juris et de jure (of law and by the principles of law), such as the presumption of incapacity in a minor to act, which are irrebuttable; (b) juris (of law), which may be disproved or "rebutted" by evidence; or (c) judicis or facti, i.e., presumptions of fact, drawn by a judge from the evidence.

Presumption, of death or survivorship, see Death.

Presumptive, see Heir. A presumptive title is one which arises out of, or is presumed from, mere possession without claim of right.

Pretended, pretended or claimed; e. g., right or title. The Pretended Title Statute is 32 Hen. VIII. c. 9.

Preterition or Preteritio (Roman law), the entire omission of a child's name in the father's will, which rendered it null; disherison (eshereditatio) being allowed, but not preterition.
Pretium affectionis, an imaginary or "fancy" value set on a thing by one peculiarly desirous of possessing it.

Prevarication, collusion between an informer and a defendant, in order to a feigned prosecution. (2) Equivocation. (3) Malversation or malpractices in a public office.

Prevention of Crimes Acts, 1871 and 1879, provide inter alia for keeping a register of, and for photographing criminals with a view to their easier identification.

Previous conviction, for a like offence, subjects the criminal to police supervision. See Police.

Pricking for Sheriffs. Returns are made to the Privy Council every year by the Judges of Assize of three persons for each county, from whom the sheriff for the ensuing year is selected, and is then said to be pricked or nominated by the Crown.

Priest, a minister of a church. A person cannot, except by special dispensation, be ordained deacon before twenty-three; nor priest, in any case, before twenty-four. See Parson, Holy Orders.

Prima facie (on the first aspect), evidence, presumptions, &c., which will prevail if not rebutted or disproved.

Prime impressionis, of first impression. See First.

Primacy, see Average.

Primary, conveyances, original conveyances, such as feoffments, leases, and partitions, which operate without reference to a previous conveyance. (2) Evidence, original, as opposed to secondary or derivative; it is used especially of original documents.

Primate, an Archbishop (q. v.).

Primer, first, e.g., election; (2) fine, one paid formerly on suing out the writ of praecipe; (3) seisin, the right of the Crown in feudal times to receive of the heir of a tenure in capite who died seized of a knight's fee, one, or a half, year's profits of the land.

Primitiae, first fruits; the first year's profits of a benefice, formerly taken by the Crown.

Primogeniture, Right of, the right of the eldest born to succeed to the inheritance, to the exclusion of younger children. This rule of the feudal law exists only in a modified form, if at all, abroad. By the Roman law all children shared alike. See Gavelkind, Borough-English.

Primus actus judicii est judicis approbatorius.—(The first step which a party to an action takes in the action [unless it be to plead to the jurisdiction] is a concession that the court has jurisdiction). See R. S. C. 1883, Ord. XII. r. 30.

Principal, one who authorizes an agent (q. v.). (2) See
Surety. (3) In crime, may be (a) of the first degree, i.e., the actual perpetrator; or (b) of the second degree, i.e., aiding and abetting therein. See Accessory. (4) See Interest.

Principal challenge, one made on account of partiality or default on the part of the officer who arrayed the panel. See Challenge.

Prior patens (probate practice), the first applicant.

Priority, a preference or earlier right. The priority of specialty over simple contract debts was taken away by 32 & 33 Vict. c. 46. See Qui prior est &c.

Prisage, an abolished custom whereby the Crown had the right of levying duty on imported wines. Originally the method was to take the wine itself; but this was afterwards commuted for a money payment called butlerage. (2) The share of the Crown or the Admiral in prize-money.

Prison-breach, the offense of a prisoner who breaks out of a place where he is confined, either before or after trial.

Prisons Act, 1877, The, transferred the management of prisons from counties and boroughs to the Home Office. They are, however, visited by a committee of local justices or magistrates.

Private Acts of Parliament, acts regarding private persons or undertakings. Since 13 & 14 Vict. c. 2, they are judicially noticed by the courts.

Privateer, a ship commissioned by letters of marque (q. v.). Privateering was abolished among European nations by the Declaration of Paris, 1856.

Privatorum consentio juri publico non derogat.—(The agreements of private individuals cannot derogate from the rights of the public.)

Privatum commodum publico cedit.—(Private advantage must yield to public.)

Privilege, an exceptional right or exemption. It is either (a) personal, attached to a person or office; or (b) attached to a thing, sometimes called real. The privileges of the Crown and members of Parliament are examples of the first; those of certain chattels of not being distrained, &c., are examples of the second. (2) Privileged communications or statements, e.g., between counsel and client, are (a) those which a witness cannot be compelled to disclose; (b) those which cannot be made the ground of an action for defamation or libel. (3) Privileged debts are those which an executor may pay in preference to all others, such as funeral expenses and servants' wages. (4) As to privileged documents, see Production.

Privilege, Writ of, a process to enforce a privilege.
Privilegium, a law relating to, or directed against, a private person. (2) A privilege. (3) Property propter, a qualified property in animals ferae naturae, i.e., a privilege of hunting and killing them, to the exclusion of other persons.

Privilegium non valet contra rempublicam.—(A privilege avails not against the interest of the public.)

Privity, participation in knowledge or interest. Persons who so participate are called privies. Privity is (a) of blood, as between the heir and his ancestor; (b) of estate, as between grantor and grantee; (c) of contract, between the contracting parties; (d) of possession, as between joint tenants; (e) in representation, as between executor and his testator; (f) in tenure, as between lord and tenant by service. Privity in deed, i.e., by consent of the parties, is opposed to privity in law, as in the cases of lord by escheat, and of tenant by curtesy.

Privy Council, the chief council of the Crown, its members being nominated by the Sovereign without patent or grant.

Privy Purse, the income set apart for the private use of the Sovereign. See Civil List.

Privy Seal, is one affixed to charters, patents, &c., signed by the Sovereign, as an authority to the Lord Chancellor to affix the great seal (q. v.); and also to some documents of less consequence which do not pass the great seal. The Privy Signet is used by the Sovereign on private letters, and on grants which pass his hand by bill signed.

Prize, property captured in war, which, by grace of the Crown, falls to the forces who assist in the capture (q. v.). Prize Courts are tribunals created by commission under the great seal in time of war to settle questions of prize and booty (q. v.), and other matters connected with international law. It differs, therefore, from the Court of Admiralty, though the same judge usually presides in both courts. See Admiralty, Instance Court.

Prize fighting, is an affray (q. v.), and an indictable misdemeanour on the part of both combatants and backers. More presence, however, at a prize fight is not sufficient to sustain a conviction for assault.

Pro confesso. See Confesso.

Pro falso clamore suo, a nominal amercement of a plaintiff for his false claim, which used to be inserted in a judgment for the defendant.

Pro formâ, as a matter of form.

Pro hâc vice, for this occasion.

Pro indiviso (as undivided), said of the possession of lands by joint or co-owners before partition.
Pro interesse suo (in respect of his interest). If a third person claims any interest in property taken by sequestrators which apparently belongs to the debtor, an inquiry is directed pro interesse suo, to ascertain the justice of his claim.

Pro rata (parte), in proportion.

Pro re natâ, as the thing occurred; or, to meet the emergency.

Pro salute animæ (for the good of the soul). All prosecutions in the ecclesiastical courts purport to be pro salute animæ.

Probate, the certificate of a will having been proved. (2) The act of proving a will. Probate is obtained by the executor (or executors) of a will in the probate branch of the High Court of Justice; it may be either in common form, or, in solemn form (per testes). When the will is proved, the original is deposited in the registry of the court, and a copy thereof, on parchment, called the probate copy, is made out under its seal and delivered to the executor with the certificate. The Probate Act is a memorandum of the grant of probate made by the Clerk of the Seat. An executor may renounce probate, or power may be reserved for him to prove it subsequently. If he does so, a second or double probate issues. As to Probate duty, see the Customs and Inland Revenue Act, 1881, by which it is now made a tax on the net value of a testator’s personal estate, after deducting debts and funeral expenses. See also Court of Probate.

Probate, Divorce, and Admiralty Division, The, of the High Court, exercises the jurisdiction formerly belonging to the Court of Probate, the Court for Divorce and Matrimonial Causes, and the High Court of Admiralty (q. v.). It consists of two judges, one of whom is called the president, and registrars.

Probationer, one who is upon trial.

Probatis extremis, presumuntur media.—(The extremes being proved, the mean is presumed.) Cf. : Omne majus in se continet minus.

Procedendo (scil. ad judicium), a prerogative writ addressed by a superior to an inferior court directing the latter to proceed forthwith to deliver judgment. (2) One remitting to an inferior court an action which has been removed on insufficient grounds to the superior court by habeas corpus, certiorari, or any like writ. These writs originally issued from the common law side of the Court of Chancery, which is now part of the high court.

Procedure, the mode in which the successive steps in a litigation are taken. See Practice.

Process, the means whereby a court enforces obedience to its
orders. This, since the Judicature Acts, is effected in civil proceedings by a writ, which is either to enforce attendance, e. g., a writ of summons, or to enforce execution of a judgment, &c. In criminal proceedings the object of the process is to bring the offender before the court; this is effected by capias, warrant, or the like. As to the Ecclesiastical courts, see *Citation, Monition.*

*Processum continuando,* a writ for the continuance of process after the death of the Chief Justice or other justices in the commission of oyer and terminer.

*Prochein,* next. *Prochein Amy, next friend* (q. v.).

*Proclamation,* the method of giving public notice usually adopted by the Crown; it is part of the royal prerogative. (2) A fine *levied with proclamation,* i.e., read in court four times in four successive terms, barred all adverse claims not legally enforced within five years. See *Fine.*

*Proclamator,* was an officer of the Court of Common Pleas.

Proctor, a manager of another person's affairs. In the Ecclesiastical and Admiralty courts the proctors discharged duties similar to those of a solicitor; they no longer exist as a distinct body.

*Procuration,* agency, hence signature by procuration ("*per pro*"), as to which see 45 & 46 Vict. c. 61, s. 25. *Letters of procuration* resemble letters of attorney (q. v.). (2) Money which parish priests pay yearly to the bishop or archdeacon, *ratione visitationis.* (3) A fee or commission taken by scriveners on effecting a loan.

*Procurator Fiscal,* the public prosecutor in Scotland, who also takes the place of the coroner.

*Producent,* the person calling a witness. (Ecclesiastical term.)

*Production,* of documents in the possession of any party to an action or other proceeding, either to the court itself or, if they are not privileged, to any other party, may be ordered by any judge of the High Court. A document of title is as a rule privileged if it refer only to the title of the person holding it. See *Privilege, Cestui que vie, Discovery, Inspection.*

*Profert,* of a deed, production. Any party alleging a deed in his pleadings was obliged to *make profert* of it, either actual or fictitious, in court, simultaneously with the pleading in question. Abolished by the C. L. P. Act, 1852. See *Oyer.*

*Professed,* one who has entered a religious order. This formerly entailed civil death.

*Professional privilege,* that of a barrister or solicitor in communicating with clients. See *Privilege.*
Profit, gain; income of money or land, in which latter sense it is generally used in the plural. Profits are said to lie in prender when they consist of a right in the lord to take something, and to lie in render when the tenant is bound to offer to pay them, as in the case of rent. See Violent.

Prohibition, Writ of, which was formerly called Inhibition, issues out of the High Court to prevent an inferior court from taking cognisance of or determining any matter out of its jurisdiction. It may be absolute (see Consultation), temporary (quonsque), or limited (quoad) to a particular act which is prohibited.

Proliscide, the destruction of human offspring; it includes foeticide and infanticide.

Prolixity, an unduly lengthy statement of facts. The offending party may be ordered to pay the costs occasioned by it, or in the case of an affidavit, to take it off the file.

Promise, an engagement by a promisor to a promise for the performance or non-performance of a particular thing. See Consideration.

Promissory note, or Note of hand, is "an unconditional promise in writing, made by one person to another, signed by the maker, engaging to pay on demand, or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person, or to bearer." See 45 & 46 Vict. c. 60, s. 83. See Payee, Indorsement.

Promissory oath. See Oath.

Promoter, a common informer (obsolete). (2) The prosecutor of an ecclesiastical suit. (3) One who forms a company; he is usually the owner of a property, patent, &c., which he wishes the company to buy from him; he is in a fiduciary position towards the company when formed. (4) The persons authorized by special Act of Parliament to execute an undertaking.

Promoveat. See Duplex Querela.

Proof, the establishing of the truth of an allegation by evidence (q. v.). (2) The evidence itself. The person alleging the affirmative generally has the necessity thrown on him of proving it; this is called the onus probandi, or burden of proof. To shift the onus is to adduce sufficient evidence to raise a presumption in one's favour, until rebutted by the opponent. (3) The summary of what a witness is prepared to testify to, which is handed to counsel as part of his instructions. (4) In bankruptcy, the establishing of a claim against the bankrupt's estate. To expunge a proof is to disallow one previously admitted. (5) The proving of a will. See Probate.
Propel (Sc.). An heir of entail in possession may propel the estate to the next heir in order of succession. Such renunciation of the estate is called propulsion.

Proper (Lat. proprius), that which is one’s own. (2) Genuine, correct.

Property, the right of ownership; this may be (a) general or absolute, or (b) special or qualified, as in the case of animals foræ naturæ (q. r.), or of a bailee for a special purpose. (2) The thing owned. In this sense it is (a) real, or (b) personal. See those titles.

Property qualification for members of Parliament was abolished by 21 & 22 Vict. c. 26, and for members of some other representative bodies by 43 Vict. c. 17.

Property tax. See Income Tax.

Propositus (the person proposed), the person from whom a descent is to be traced.

Propound, of an executor, to demand probate of a will in solemn form. (2) Of a plaintiff, to allege in pleadings that a will has been duly executed and proved.

Proprietary or Proprietor, one who has property in a thing, an owner.

Proprietary Chapel, one belonging to a private person. Public divine service can only be held therein with the consent of the incumbent of the parish church and the licence of the bishop.

Propriestate probandæ, a writ to a sheriff to try by inquest in whom certain property existed previous to distress.

Proprio vigore (by its own force).

Propulsion (Sc.). See Propel.

Prorogated jurisdiction (Sc.), that which is conferred by the consent of parties on a tribunal not otherwise possessing jurisdiction.

Prorogation, a prolonging or postponement. The prorogation of Parliament never extends over 80 days, but it may be renewed from time to time by proclamation.

Prosecute, one who brings an action against another in the name of the Crown, who is nominally the prosecutor in every case. Prosecutions may be by way of indictment or information (q. r.). See also Public Prosecutor.

Prospectus, a document issued with a view to the formation of a company, setting forth the objects of the proposed undertaking, and inviting persons to subscribe for shares. Misrepresentation therein is ground for rescission of a contract to take shares. See the Companies Act, 1867, s. 38.
Prostitute, a woman who indiscriminately consorts with men for hire. Solicitation by prostitutes is punishable under various statutes.

Protection Order. A wife deserted by her husband may obtain from a magistrate or a judge of the Probate, Divorce, and Admiralty Division an order protecting from her husband all property acquired by her since the desertion, and entitling her to sue and be sued as a single woman. See 21 & 22 Vict. c. 85, and Married Women's Property.

Protector of the Settlement, the person without whose consent a tenant in tail can only cut off the entail so as to bar his own issue, not the remaindermen (see Base fee). He is either appointed by the settlor, or is the person originally entitled (i.e., not the assign or the owner of a charge upon it) to the first estate for life or for years determinable on the dropping of a life or lives prior to the estate tail. Prior to the institution of the protector by the Fines and Recoveries Act, 3 & 4 Wm. IV., c. 74, the consent of the tenant to the præcipe was similarly required.

Protest, a solemn declaration of opinion, generally of descent. Every peer forming one of a dissentient minority may enter his protest on the Journals. (2) An express reservation whereby a person protects himself against the effects of any admission that might be implied from his act. Hence appearance under protest, which is made where a party intends to object to the jurisdiction, which he should do forthwith by motion to dismiss the action on that ground. (3) Protest of a bill is a declaration written by a notary (q.v.) upon a bill of exchange that he has demanded acceptance or payment of it and been refused, with the reasons (if any) for such refusal. It is only necessary in case of a foreign bill (q.v.). See Acceptance, Dishonour. (4) A document drawn up (or extended) by the master of a ship and formally attested, stating the circumstances under which damage has happened to the ship or her cargo.

Protestando, protestation, a form of pleading, abolished in 1834, whereby a person protected himself against an admission so made by him being used against him in that or another action.

Prothonotaries, officers in the Courts of Exchequer and Common Pleas who were superseded by the masters in 1837. They were, however, continued in the Courts of Common Pleas at Durham and Lancaster.

Protocol, the original draft or record; especially of proceedings in an ecclesiastical cause. (2) A record of preliminary negotiations. (International law.)
Prove. See Proof, Probate.

Provident Societies. See Industrial.

Province, the district over which the jurisdiction of an archbishop extends. Hence Provincial Courts, the ecclesiastical courts of the two archbishops. See Arches, Audience, Faculties, Consistory.

Provision, a nomination by the Pope to a benefice before it fell vacant. A person so nominated was called a provisor.

Provisional, made or existing for a time, or until something further is done. Provisional assignees, under the former bankruptcy law, were those appointed until creditors' assignees were chosen. (2) Provisional orders, those made in favour of public bodies, &c., under authority of Acts of Parliament, and which are not in force until confirmed by a further statute. See also Specification.

Proviso (it being provided), a condition or stipulation; e.g., a proviso for redemption. See Mortgage, Redemption. (2) Trial by proviso, previous to the Judicature Acts, was a method whereby a defendant brought the cause to trial if, after issue joined, the plaintiff neglected to do so.

Proxy, a person appointed by another to represent him, usually at a meeting, e.g., of a company, or of creditors. (2) The writing by which the appointment is made. (3) An annual payment by clergy to the bishop, &c., on visitation.

Puberty, the age of fourteen in males and twelve in females, at which they are deemed physically fit for and legally capable of contracting marriage.

Public. See Act, Company, Funds, Highway, Nuisance, Policy.

Public prosecutor. By the Prosecution of Offences Act, 1879 (c. 22), an office called the Director of Public Prosecutions, or Public Prosecutor, was created, whose duty it is in all important cases to undertake a prosecution where there is no private person willing to do so, or where owing to the magnitude of the offence it is desirable the prosecution should be officially conducted. See Attorney-General, Crown Solicitor, Procurator Fiscal.

Publication, a making public. (2) Of a libel, is to bring it to the knowledge or notice of a third person. (3) Of an invention, prior to taking out a patent, is ground for an objection for want of novelty. (4) Of a will, which meant acknowledgment of it by a testator as his last will, is no longer necessary.

Publici juris (of public right), a thing is said so to be when it is common property.
Puffer (white bonnet, Sc.), one who attends an auction by arrangement with the vendor for the purpose of bidding, and thereby raising the price. By 30 & 31 Vict. c. 48, sales by auction where a puffer has bid are illegal, unless the right of bidding is reserved by the conditions of sale; in a sale “without reserve” no puffer may be employed, and only one or the vendor may bid.

Puis darrein continuance. If any matter of defence arose since the last adjournment, or after defendant had delivered his plea, it was so pleaded. He may now deliver, by leave, a further statement of defence.

Puisne (later born). See Mulier. (2) Later in date, e.g., an incumbrance. (3) Lower in rank, e.g., justices of the Queen's Bench Division other than the Lord Chief Justice.

Pupil (Sc.), an infant under the age of puberty (q.v.). During this period, which is called pupillarity, infants are under the care of tutors; afterwards until majority, of curators. Tutors and curators are alike called guardians in the English law.

Pur, or per, autre vie. See Autre vie.

Purchaser, one who acquires by buying. (2) One who acquires land otherwise than by descent. For purposes of inheritance descent is traced to the last purchaser, who, under 3 & 4 Wm. IV., c. 106, is the person last entitled to the land otherwise than by inheritance. He is called the "root" or "stock" of descent.

Purge, to clear oneself of a criminal charge. (2) See Contempt.

Purlieu, land formerly added to an ancient forest by unlawful encroachment, and disafforested by the Charta de Forestâ.

Purparty, a share. To hold in purparty is to be a joint or co-tenant.

Purpresture. See Pourpresture.

Pursuer (Sc.), a plaintiff.

Purview, the body of a statute as distinguished from the preamble; the general scope or object of a statute.

Put, or Putt. See Option.

Putative, supposed, reputed.

Pyx. See Pix.

Q.

Q. V., quod vide (which see), a means of reference to the word, &c., which immediately precedes.
Qua, in the character of, in virtue of being.
Quacumque via (data), whichever way it is taken.
Quadriennium utile (Sc.), the term of four years allowed to a minor after attaining majority, during which he may bring an action to "reduce" or avoid any deed granted to his prejudice during minority.
Quae communi legi derogant strictè interpretantur.—(Those things which derogate from the common law are to be strictly interpreted.)
Quae contra rationem juris introducta sunt, non debent trahī in consequentiam.—(Things introduced contrary to the spirit of the law ought not to be drawn into a precedent.)
Quaecunque intra rationem legis inveniuntur, intra legem ipsam esse judicantur.—(Those things which are within the spirit of a law are considered to be within the letter of it.)
Quae est eadem (which is the same), a form of plea in actions of trespass and the like, traversing the time and place named in the declaration.
Quae in curiâ regis acta sunt rite agi presumuntur.—(What has been done by the Court is presumed to be rightly done.)
Quae in partes dividī nequeunt solida a singulis praestantur.—(Feudal services which are incapable of division are to be performed in whole by each individual.)
Quaelibet concessio fortissimè contra donatorem interpretanda est.—(Every grant is to be construed most strongly against the grantor.) See, however, Donationes &c.
Quæ plura, a further writ by an escheator to inquire what more lands or tenements a party had died seized of. Obsolete.
Quæstus (Roman law), that estate which a man has by acquisition or purchase, in contradistinction to hæreditas, what he has by descent.
Quaker, a member of a religious society, more correctly denominated Friends. See Affirmation.
Qualification, that which makes a man fit or eligible for an office or position; it is usually the ownership of property (q.v.) of a certain value; and prior to 29 Vict. c. 22, a declaration was required in many cases. (2) A limitation, diminution.
Qualified, limited. See Base fee, Property.
Qualified indorsement, one sans recours, i.e., giving no right to resort to the indorser for payment. See Without.
Qualify, to become, or (2) to make, qualified (see Qualification). (3) To limit.
Quality, the nature of an estate (q.v.), as regards the time of its commencement, or the certainty of its duration.
Quamdiu se bene gesserit, see Durante.
Quando acciderint, a judgment to be levied when assets come into the hands of the heir or executor.
Quando aliquid mandatur, mandetur et omne per quod pervenit ad illud.—(When a mandate or power is entrusted to an agent, every power is impliedly given him which is necessary to enable him to carry out the mandate.)
Quando aliquid prohibetur ex directo, prohibetur et per obliquum.—(When a thing is forbidden to be done directly, it is also forbidden to be done indirectly.)
Quando lex aliqui concedit, concedere videtur et id sine quo res ipsa esse non potest.—(When the law gives a man anything, it gives him also that without which the thing cannot exist.) See, e.g., Way of necessity.
Quando res non valet ut ago, valcat quantum valere potest.—(When any instrument does not operate in the way I intend, let it operate as far as it can.) See Benigne.
Quando verba statuti sunt specialia, ratio antem generalis, generaliter statutum est intelligendum.—(When the words of a statute are special, but its object general, it is to be construed as general.)
Quantity, the duration of an estate (q. v.), or degree of interest; e.g., a fee simple, a life estate.
Quantum damnificatus, an issue formerly sent out of Chancery to be tried at common law, how much the plaintiff was damaged.
Quantum meruit (as much as he has earned), a form of action brought by one party to a contract against the other, not founded on the contract itself, but on an implied promise to pay for so much as the party suing has done. If one party refuses to perform his part, the other may rescind and sue on a quantum meruit. This and the next title no longer exist as special forms of actions.
Quantum valebant (as much as they were worth). Where goods have been supplied and no price mentioned (as by an innkeeper to a guest), or where they are not supplied as ordered and are yet not returned, the person supplying them is said to sue on a quantum valebant. See last title.
Quarantine, the period of forty days during which a widow is entitled to remain in her husband’s dwelling-house after his death. (2) Forty perches of land. (3) The period during which persons coming from a ship or country where an infectious disease is known to prevail, are isolated or not allowed to land.
Quare clausum fregit, see Trespass.
Quare eject infra terminum (why he ejected within the term), a writ against one who ejected another during the currency of a term created by the former.

Quare impedit (why he obstructs), an action which lies to recover a right of presentation to which another has asserted a claim, or to oblige a bishop to admit the person presented, or to establish title to an advowson. See Litigious.

Quare obstruxit (why he obstructed), a writ for obstructing a right to pass over defendant's land.

Quarter-days, Lady-day, March 25th; Midsummer-day, June 24th; Michaelmas-day, September 29th; and Christmas-day, December 25th. See Cross quarter-days.

Quarter-sessions, General, are a Court of Record held once every quarter by two or more justices of the peace, for the finding of indictments by the grand jury, the trial of such minor offences as the Court has jurisdiction over, and the hearing of appeals from petty and special sessions in such matters as rating and licensing. In some counties intermediate general sessions are held.

Quash, to annul or discharge, e.g., a conviction or order.

Quasi contract, one which arises without express agreement between the parties; an implied contract.

Quasi-delict, see Quasi-tort.

Quasi-easement, a positive, as opposed to a negative, obligation.

Quasi-entail, is where an estate pur autre vic is limited to a man and the heirs of his body.

Quasi-personalty, things which are personalty in the eye of the law, though appertaining to things real, e.g., emblements, fixtures, or chattels-real.

Quasi-possession, enjoyment of a right, as opposed to possession of a thing.

Quasi-realty, things which in contemplation of law, appertain to, and pass as, realty, though in themselves they are personalty; e.g., heir-looms and title-deeds, &c.

Quasi-tort, the wrong for which a person is responsible, though it is not committed by himself; e.g., a master is liable for anything done by a servant in the course of his employment.

Quasi-trustee, a person who reaps a benefit from a breach of trust, and so becomes answerable to the cestui que trust.

Quo estate, see Prescription.

Queen, see Crown, Sovereign.

Queen Anne's Bounty, a fund created by Queen Anne out of the proceeds of first fruits and tithes formerly taken by the
Pope, and converted by Henry VIII. to the revenues of the Crown for the purpose of augmenting the livings of the poorer clergy.

Queen's Advocate, an advocate appointed by royal letters patent to advise the Crown in matters of ecclesiastical, admiralty, and international law. He ranks next after the Solicitor-General. See Advocate.

Queen's Bench or King's Bench, a Court so called because its records ran in the name of the king (coram rege), who formerly sat there in person. It was the first in dignity of the Common Law Courts, and its chief judge was, and is still, called the Lord Chief Justice of England. It had special jurisdiction over all inferior Courts by the prerogative writs of mandamus, prohibition, and certiorari, and by proceedings in quo warranto and habeas corpus. It had two sides, the civil or plea, and the criminal or Crown office. By the fictitious proceedings called Latitat and Bill of Misdemeanors (q. v.), it usurped jurisdiction over all personal actions. By the Judicature Act, 1873, its jurisdiction was transferred to the High Court of Justice, of which it originally formed the Queen's Bench Division; but by an Order in Council of February, 1881, the two other Common Law Divisions were merged in it, and the offices of Chief Baron and Chief Justice of the Common Pleas were abolished; and the term "Justice" now applies to all judges of that Division alike, with the exception of the Lord Chief Justice. See High Court.

Queen's Bench Division, see Queen's Bench.

Queen's Coroner and Attorney, formerly an officer on the Crown side of the Queen's Bench; he is now a master of the Supreme Court.

Queen's Counsel, barristers who, on account of superior standing or ability, are appointed counsel to the Crown, and called within the bar. They take precedence of the junior bar. A Queen's Counsel may only be employed against the Crown (e.g., in defending a prisoner) by special licence, but this is not refused unless the Crown desires to retain him.

Queen's Evidence, see Approver.

Queen's Printer, The, has the privilege of printing the Bible, Prayer-book, Statutes, and Acts of State, to the exclusion of all other presses, except those of the two Universities.

Queen's Proctor, see Intervention.

Queen's Remembrancer, formerly an officer of the Exchequer, whose duties were to protect the rights of the Crown in revenue matters. He is now an officer of the Supreme Court.

Quem reeditum reddi, a writ by which the grantee of a rent other than rent service could oblige the tenants to attorn to him. Abolished 1833.
Querela, see Duplex, Auditā.

Querens or querent, a plaintiff, complainant.

Question, an interrogatory (see Torture). (2) An issue to be decided by a court of law. It may be (a) of law, or (b) of fact. See Ad quaestiones &c., Foreign law, Special case.

Qui approbat non reprobat.—(He who accepts cannot reject.)

See Approbate.

Qui facit per alium, facit (or est perinde ac si faciat) per se. —[He who does a thing through another (is in the same position as if he) does it himself]: i.e., a principal is liable for the acts of his agent acting within the scope of his authority.

Qui hæret in literā, hæret in cortice.—(He who sticks to the letter goes only skin-deep: lit. sticks in the bark.)

Qui in jús dominiumcō alterius succedēt jure ejus uti debēt.—(He who succeeds to the right or property of another should have only his rights): e.g., the heir is subject to the debts of his ancestor to the extent of any property coming to his hands as such.

Qui in utero est pro jam nato habetur, quoties de ejus commodo quaeritur.—(He who is in the womb is held as already born, whenever a question arises for his benefit.) See Gestation.

Qui mandat ipse fecisse videtur.—(He who gives the order is taken to be himself the doer). Cf. Qui facit per alium &c.

Qui non habet in aere luat in corpore.—(He who cannot pay must go to prison.)

Qui non improbat, approbat.—(He who does not blame, approves.)

Qui non prohibet quod prohibere potest, assentire videtur.—(He who does not forbid what he can forbid, is understood to assent.)

Qui parcit nocentibus, innocentes punit.—(He who spares the guilty punishes the innocent.)

Qui per fraudem agit, frustrā agit.—(What a man does fraudulently, he does in vain: [for the courts will give relief against him].)

Qui prior est tempore potior est jure.—(He who is first in time, is better in law.) Those who have equities in other respects equal must rank according to their order in point of date.

Qui sentit commodum, sentire debet et onus.—(He who receives the advantage, ought also to suffer the burden.)

Qui sumnum recepit, licet a non suo debitore, non tenetur restituere.—(He who has recovered his own property, even from one who is not his debtor [i.e., under obligation to give it up], cannot be forced to restore it.)

Qui tacet, consentire videtur.—(He who is silent, is understood to consent.)
Qui tam (one who prosecutes as well on account of himself as of the Crown), a "popular" action on a penal statute, which is partly at the suit of the Queen, and partly at that of an informer. See Common Informer.

Qui tardius solvit, minus solvit.—(He who pays too late, pays too little.)

Qui evit decipi decipiatur.—(Let him be deceived who wishes to be deceived, i.e., the court will not relieve a person who has been guilty of negligence so gross as to invite deception.)

Quia emptores (because purchasers), the Statute 18 Edw. I., c. 1, also called of Westminster the Third, which began with those words. It was passed to prevent subinfection, by enacting that upon any future alienation of land the feoffe should hold the same direct of the chief lord and not of his feoffor. In the opinion of some it first created the right of alienation as against the lord of the fee. See Manor.

Quia improvidum emanavit, a supersedeas to quash and nullify a writ on the ground that it issued erroneously.

Quia timet (because he fears), a bill which was filed to protect property from apprehended future injury. The same result can now be obtained by an action.

Quicquid plantatur solo, solo cedit.—(Whatever is affixed to the soil, passes with a grant of the soil). See Fixtures.

Quicquid solvitur, solvitur secundum modum solventis.—(Whatever is paid, is paid according to the direction of the payer: i.e. the debtor may state, at the time of payment, which of two or more debts he intends to liquidate.)

Quid Juris clamat, a writ whereby the grantee of a reversion or remainder could force the tenant for life to attorn to him. Abolished 1833.

Quid pro quo (something for something), a consideration.

Quiet enjoyment, see Title.

Quietus, freed or acquitted. The word used in the exchequer to signify the discharge given to an accountant to the Crown, e.g. a sheriff.

Quint-exact or Quinto exactus, a person called or summoned to appear for the fifth and last time before he was declared an outlaw.

Quit claim, to release a claim or right of action.

Quit rent (quiatus redivus), or fee farm rent (See Rent), one payable by a tenant to the lord of the manor, and so called because it was originally a payment in lieu of services. It may be redeemed under s. 45 of the Conveyancing Act, 1881.

Quittance, an acquittance or release.

Quo animo (with what mind).
Quo jure, a writ which lay to force a claimant to right of common to show his title.

*Quo ligatur eo dissolventur.*—(An obligation must be dissolved by the same mode as it was contracted, *e.g.*, a deed by a deed.)

*Quo minus,* a writ (abolished 1832) whereby the Court of Exchequer obtained jurisdiction in personal actions; the plaintiff alleging that in consequence of the injury done him by the defendant he was *less able* to pay a debt due by him to the Crown. This could only be true of an accountant to the Crown; but by a fiction the allegation was allowed in all personal actions in that court.

*Quo warranto,* a prerogative writ issuing out of the Queen's Bench Division on behalf of the Crown against one who claims or usurps any franchise or liberty, to enquire by what authority he claims. This writ has been supplanted by a proceeding called *an information in the nature of a quo warranto,* filed by the Attorney-General, which is more speedy: by it questions of the right to municipal offices are tried, except in cases coming under the Acts dealing with corrupt practices.

*Quoad* (as far as): *quoad hoc* (as to this).

*Quoad ultra* (as to the rest).

*Quod ab initio non valet, in tractu temporis non convalescit.*—(That which is invalid in its commencement, gains no strength by lapse of time.)

*Quod contra legem fit, pro infecto habetur.*—(What is done contrary to law is considered as not done.)

*Quod ei deforceat,* a writ (abolished 1833) for him who had lost possession by default of appearance in a possessory action.

*Quod fieri debet facile praemittatur.*—(That which ought to be done is easily presumed.)

*Quod fieri non debet factum valet.*—(That which ought not to be done is yet [sometimes] valid when done, *e.g.*, a marriage without the proper consents.)

*Quod necemitas cogit, exequat.*—(That which necessity obliges to she excuses, *i.e.*, a man is not held criminally responsible for actions which he is forced to commit.)

*Quod nullius est, est domini regis.*—(That which is the property of nobody belongs to our lord the king, *e.g.*, where a person dies intestate and without heirs.) See also *Waifs, Wreck.*

*Quod per me non possum, nec per alium.*—(What I cannot do of myself, I cannot do by another, *i.e.*, a person cannot delegate a power he does not himself possess.)

*Quod permittat,* a writ against a person who built a house on his own ground so as to be a nuisance. Abolished 1838.
Quod pure debetur, praeenti die debetur.—(That which is due unconditionally, is due at once.)

Quod recuperet (that he do recover the debt or damages), a final judgment for a plaintiff in a personal action.

Quod semel placuit in electione, amplius displicere non potest.—(When election is once made it cannot be revoked.)

Quod tacite intelligitur deesse non videtur.—(What is tacitly assumed is not held to be non-existent [even though there is no proof of its existence]). Cf: Quod naturaliter inesse debet, praemittitur.—(That which naturally accompanies another thing is assumed to do so.)

Quod turpi ex causa promissum est, non valet.—(A promise founded on an illegal consideration is not binding.)

Quod vanum et inutile est, lex non requirit.—(The law requires not what is vain and useless.) Cf: Lex nil facit frustra.

Quoniam attachiamenta, one of the oldest books of the Scotch law, so called from the first words of the volume.

Quorum, see Justices. (2) The minimum number necessary to be present in order to constitute a formal meeting capable of transacting business; e.g., of directors at a board meeting.

Quot, one twentieth part of the moveable estate of a person dying in Scotland, anciently due to the bishop of the diocese.

Quoties in verbis nulla est ambiguus, ibi nulla expositio contra verba fienda est.—(Where there is no ambiguity in the words of an instrument, no interpretation must be given to it contrary to the words), i.e., parol evidence to contradict or vary the clear words of a written instrument is inadmissible.

Quousque (until), temporary. See Prohibition.

R.

R.S.C. 1883, Rules of the Supreme Court made under the authority of the Judicature Act, 1881, and consolidating the rules and forms of procedure in the Supreme Court.

Rabbit, a beast of warren, the legal name of which was formerly “coney.” See Game, and the Ground Game Act, 1880.

Race, to compete for the conduct of an action.

Racecourse. By 42 & 43 Vict. c. 18, no metropolitan race-course (i.e., one within ten miles of Charing Cross) is allowed without an annual licence from the justices of the peace.

Rack-rent, rent calculated on the footing that no fine or
premium shall be taken; hence, one which is very high, representing nearly the full annual value of the property.

Ragimund's or Ràgman's Roll, a list compiled by a papal legate called Ragimont of the benefices in Scotland, and their several values, for purposes of taxation by the Pope.

Railway Clauses Consolidation Act, 1845, 8 Vict. c. 20, consolidated the chief provisions theretofore inserted in the private act of every railway; \textit{inter alia}, those relating to the temporary use of land, and the construction of the railway.

Railway Commissioners, three officials constituted by 36 & 37 Vict. c. 48, to whom the jurisdiction conferred on the various Courts by the Railway and Canal Traffic Act, 1854, was transferred. Their chief duties relate to the maintenance of freedom and economy of transit, and proper accommodation for passengers and traffic.

Bank, excessive, and therefore void; said of a prescriptive claim, \textit{e.g.}, to a modus (\textit{q. v.}).

Banking and Sale (Sc.), the process of selling the heritable estate of an insolvent for the benefit of his creditors. It has been superseded by a simpler procedure in bankruptcy.

Bale, a division of a county. (2) The act of having carnal knowledge of a woman by force and against her will.

Baptu hæredis, a writ for taking away an heir holding in socage.

Barasur, see Erasure.

Rate (\textit{pro ratà, in proportion to value}), the sum assessed by a local authority on persons resident in their district (\textit{e.g.}, Poor-rate, \textit{q. v.}). A person is said to be rateable, when by virtue of his ownership or occupation of property he is liable to pay rates. Other instances of rates are the Borough and Highway rates. (2) Rate of exchange, the price at which a bill drawn in one country upon a person resident in another may be sold in the latter.

Rate-tithe. When any sheep, or other cattle are kept in a parish for less time than a year, the owner must pay tithe for them \textit{pro ratà}, according to the custom of the place.

Ratification, of a contract, confirmation of one which would not otherwise be binding. See Infant.

Ratihabitio mandato æquiparatur.—(Ratification is tantamount to a direction.)

Ratio decidendi, the reason for the decision in a cause or matter.

Rationabili parte, an old writ of right for lands, \&c.

Ratione tenure, by reason of tenure or occupation.
Rationes, the pleadings in a suit.

Rattening, the offence of depriving a workman of his tools, &c., in order to force him to join a trades' union.

Ravishment, the taking away of a wife from her husband, or a ward (gard) from his guardian.

Real, appertaining to land, as opposed to personal. See Chattels, and the next titles.

Real action, one brought for the specific recovery of lands, tenements, and hereditaments. By 3 & 4 Wm. IV., c. 27, s. 37, all real and mixed actions, except writ of right of dower, writ of dower unde nil habet, Quare impedit, and ejectment were abolished. By the Judicature Act all distinctions between these four and ordinary actions were finally abolished. See Action, Ejectment.

Real burden (Sc.). Where a right to lands is expressly granted under the burden of a specific sum, which is declared a burden on the lands themselves, or where the right is declared null if the sum be not paid, and where the amount of the sum, and the name of the creditor in it can be discovered from the records, i.e., the grant, the burden is said to be real.

Real estate, Real property, or Realty, landed property, including all estates and interests in lands which are held for life (not for years, however many) or for some greater estate, and whether such lands be of freehold or copyhold tenure.

Real right (Sc.), a right of property in a thing, or jus in re, entitling the owner to an action for possession, as opposed to a right against a person, or personal right (jus ad rem).

Real things, things substantial and immovable, and the rights and profits annexed to or issuing out of them.

Real warrandice (Sc.), an infeoffment of one tenement given in security of another.

Re-assurance, see Re-insurance.

Re-attachment, a second attachment of one who has been already attached and dismissed, in consequence of the non-arrival of the justices, or some such casualty.

Rebate, discount, deduction from a payment in consideration of its being made before it falls due.

Rebut, to disprove, answer (see Presumption). (2) To repel or bar a claim.

Rebutter, the answer of a defendant to a plaintiff's surrejoinder. See Pleadings.

Rebutting evidence, that which is given by one party in a cause, to explain or disprove evidence produced by the other party.
Reception, or reprisal, a remedy open to one who has been deprived of his goods, wife, child, or servant, by another; he may re-take them provided he do so without a breach of the peace, and not in a riotous manner. (2) Writ of re-capture, a remedy for him whose goods are a second time distrained for the same rent, &c., pending an action of replevin grounded on the former distress.

Recapture, the recovery by force of property captured by the enemy. See Postliminium.

Receipt, an acknowledgment in writing of having received a sum of money or other valuable consideration. If this exceed £2, a stamp duty of 1d. is payable.

Receiver, a person appointed, usually by an order of a Court, to receive the rents and profits of property, where it is desirable that these should come into the hands of a responsible and impartial person; e.g., in actions for dissolution of partnership. If there is a business to be carried on meanwhile, the receiver may also be made manager. He is, when appointed by the Court, its officer, and is required, as a rule, to give security for the due performance of his duties. See the Conveyancing Act, 1881, s. 19, as to the right of a mortgagee to a receiver, and Judicature Act, 1873, s. 25 (8).

Receiver-General of the Public Revenue, an officer in each county who receives the taxes and remits them to the Treasury.

Receiver of stolen goods, one who receives any goods knowing them to have been feloniously stolen, extorted, &c.

Receivers of wreck or droit, officers appointed by the Board of Trade for the preservation of wreck, &c.

Receiving order, see Bankrupt.

Recession, a re-grant.

Reciprocity, mutuality (q. v.); a term specially applied to treaty dealings between states.

Recital, the rehearsal, or making mention in an instrument of something which has been done before. Recitals lead up to and explain the operative part, and are either introductory or narrative. By the Vendor and Purchaser Act, 1874, twenty years' old recitals are made prima facie proof of the truth of the facts recited. See Deed, Estoppel.

Reclaim (Sc.), to appeal.

Reclaimed animals, those that are made tame by art, industry, or education, whereby a qualified property may be acquired in them. See Animals.

Reclaiming note (Sc.), formerly called a replying note, the
first step in the process of appealing against the *interlocutor* or judgment of the Lord Ordinary, to have it reviewed by the Court of Session.

**Recognitors**, the jury empanelled in an assize of novel disseisin, &c.

**Recognisance**, an obligation or acknowledgment of a debt enrolled in a court of law, with a condition to be void on the performance of a thing stipulated. The object being usually to secure that the *cognisor*, or giver of the acknowledgment, shall perform something connected with his duties to the public, *e.g.*, keep the peace or appear for judgment, the *cognisec* is usually the Master of the Rolls, the debt being due to the Crown in default of performance.

**Recognition (Sc.),** the reverter, or return, of a feu to a superior, or grantor.

**Reconventio (Rom. law),** a counter-claim or cross action.

**Reconversion,** is the return, in contemplation of law, of property which has been constructively converted to its original condition. See *Conversion*.

**Reconveyance,** takes place where a mortgagee on being paid off conveys the mortgaged property back to the mortgagor. By the Conveyancing Act, 1881, s. 15, a mortgagor may direct the mortgagee, instead of reconveying, to assign the property as the mortgagor may direct.

**Record,** a memorial, an authentic testimony of the acts of the Legislature or of a Court, written on parchment and enrolled. Records do not require to be proved. See *Nisi prius*.

**Record, Courts of,** those whose judicial acts and proceedings are entered in parchments and enrolled. See *Record*.

**Record, Debts of,** those which appear to be due by the evidence of a court of record; such as a judgment.

**Record, Trial by.** If a record be asserted on one side to exist, and the opposite party deny its existence, this is an issue of *nulla* record; and the court awards a trial by inspection of the record. Upon this, the party affirming its existence is bound to produce it in court on a given day; failing to do so, judgment is given for his adversary.

**Record and writ clerks,** were, prior to their abolition in 1879, officers of the Chancery Division. They are now Masters of the Supreme Court.

**Recordari facias loquelam** [abbrev. *re. fa. lo.*], an original writ, in the nature of a *certiorari*, issuing out of Chancery, addressed to a sheriff to remove a cause depending in an inferior court not of record to a superior court. Obsolete.
Recorder, of a borough, a barrister of five years' standing appointed by the Crown under the Municipal Corporations Act, 1882. He is sole judge of Quarter Sessions, and may appoint a "deputy" and an "assistant" recorder. (2) A person appointed by various corporations, e.g., the City of London, by prescriptive right, to assist the Mayor and other magistrates in legal matters.

Recourse, see Without.

Recovery, the obtaining a thing by judgment or trial. It may be true (see, e.g., Ejectment, Real Action) or feigned. Of the latter class were the fictitious actions called common and double recovery, resorted to, in fraud of the Statute De domis, for the purpose, inter alia, of barring estates tail. See Imparl, Praecipe, Vouchee. Recoveries were abolished by 3 & 4 Wm. IV., c. 74. See Tail.

Rectification, the correction of an instrument so as to make it express the true intention of the parties. This is obtained by action in the Chancery Division. (See Mistake.) (2) The ascertainment of boundaries.

Recto, Breve de, writ of right. See Writ.

Rector, the person who has the whole revenues of a living, including the great or rectorial tithes (see Virar); he may be a parson (q. v.), or a lay improvisor (q. v.). The term rectory, however, is only used of a non-appropriated living.

Rectum, Stare ad, to stand trial.

Rectus in curiâ, one against whom no accusation is made. (2) An outlaw who has reversed his outlawry.

Recuperatores (Roman law), judges to whom the prætor referred a question of law.

Recusants, persons who absent themselves from their parish church. By statutes of Elizabeth and James I. they were liable to penalties.

Reddendo singula singulis (by applying each term to its correlative). This is a rule of construction; as in the sentence, "If any one shall draw or load a sword or gun."

Redendum, the clause in a lease reserving rent. It usually begins with the words "yielding and paying."

Re-demise, a re-granting of land demised or leased.

Redemption (Redeem, to buy back), the paying off a loan. (2) Commutation, or the substitution of one lump payment for a number of smaller ones. (3) See Equity of Redemption.

Red handed, with the marks of crime fresh on him.

Redhibitio (Roman law), an action allowed to a buyer, by which to annul the sale of some moveable, and oblige the seller to take it back again, on the ground of deceit, &c.
Beditus albi (white rents), rents paid in silver.
Beditus nigri (black rents), rents paid in grain or base money. (2) Black mail.
Reductio ad absurdum, the method of disproving an argument by showing that it leads to an absurd consequence.
Reduction (Sc.), an action for the purpose of reducing or setting aside as null and void some deed, will, &c.
Reduction—improbation (Sc.), an action for reduction where fraud or forgery is alleged.
Reduction into possession, is the act of converting a chose in action into a chose in possession, e.g., by obtaining payment. A husband is entitled to his wife's choses in action, not settled to her separate use, when they are reduced into possession, either by himself, or, if he survive her and die before such reduction, by his personal representative. See, however, the Married Women's Property Act, 1882, s. 2, as to persons married after the commencement of the Act.
Reduction of capital. By the Companies' Act, 1867, a company may, by special resolution confirmed by the Court, reduce its capital on adding "and reduced" to its title.
Re-entry, Proviso for, a clause, usually inserted in leases, determining the lease on non-payment of rent or breach of covenant. See Forfeiture, Conveyancing Act, 1881, s. 14.
Re-examination, see Examination.
Re-exchange, the difference in the value of a bill (including damages) caused by its being dishonoured in a foreign country in which it is payable: this depends on the rate of exchange between the two countries.
Re-extent, a second extent (q. v.) for the same debt.
Referee, one to whom anything is referred for arbitration, inquiry and report, or trial. See R. S. C., 1883, Ord. XXXVI. An official referee is a permanent officer of the Court; a special referee one chosen and paid by the parties. (2) Persons to whom are referred questions as to the locus standi of petitioners against private parliamentary bills.
Reference, the submission of a matter in question to a referee (q. v.); this may be either by consent, or by order of reference. (2) The proceedings before a referee. (3) Reference in case of need. The drawer or indorser of a bill of exchange may add the name of a person to whom it may be presented in case of need, i.e., if dishonoured by any person liable to pay it.
Reference to the record, is the reference to the cause book, in which, when an action is commenced, is entered the year, the first letter of the name of the first plaintiff, and the number of
the action. All documents in the action bear this mark, e.g., "1883. A. 1," and the short title of the action.

Reform, of an instrument, rectification (q. r.). (2) The Reform Acts are 2 & 3 Wm. IV. c. 45, and 30 & 31 Vict. c. 102.

Refresher, a further fee to counsel in addition to that marked on his brief, given if the trial lasts over the first day and over five hours. See R. S. C., 1883, Ord. LXV., r. 48.

Regalia, the royal rights of a sovereign, viz., power of judicature, of life and death, of war and peace, ownership of masterless goods (see Waifs, Wreck), assessments and minting of money.

Regardant, of a villein, one attached to a manor to perform the base services. (2) Appendant.

Regiam Majestatem, a collection of the ancient laws of Scotland, compiled between A.D. 1124 and 1153.

Regio assensu, a writ whereby the sovereign gives his assent to the election of a bishop.

Register, a book in which memoranda of a public or quasi public character (as in the case of Companies' registers) are entered. A public register is kept at a registry. See Registration, District Registrars, and next titles.

Register Counties. By Acts of 15 Car. II. and 6 & 7 Anne, all deeds and wills concerning estates within the N., E., and W. ridings of York, the town and county of Kingston-upon-Hull, the county of Middlesex, or the Bedford Levels are directed to be registered, on pain of being held fraudulent and void against any subsequent purchase or mortgage for valuable consideration duly registered.

Registrar, or Registry, an officer whose business is to keep a public register. (2) A functionary in several of the Courts, whose duties, generally speaking, resemble those of a master or chief clerk (q. r.). He is subordinate to the judge, and transacts the routine business of the Court, entering memoranda on the records or rolls, drawing up orders, and so on. The registrars in bankruptcy frequently hear causes for the Chief Judge.

Registrar-General, an officer to whom the general superintendence of the whole system of registration of births, deaths, and marriages is entrusted.

Registrar of Friendly Societies, an officer appointed, with assistants, under 38 & 39 Vict. c. 60, to register loan, building, and other friendly societies, and inter alia, to certify their rules.

Registrar of Solicitors. His duty is to keep an alphabetical list of all persons who have been admitted solicitors, and to issue certificates authorizing them to practise. The duties of this office are now performed by the "Incorporated Law Society."
Registration of births, deaths, and marriages, is the civil substitute for the more ancient ecclesiastical system of registering baptism, burials, and marriages. Every poor-law union or parish is divided into districts for this purpose, and the obligation is imposed on certain specified persons of giving particulars of a birth or death to the registrar within a certain time.

Registration of Designs, see Designs, 46 & 47 Vict. c. 57.

Re-grant, a second grant of real estate, which, after having been previously granted, had come back into the hands of the former owner, by escheat, &c.

Regrade, see Engross.

Regress, re-entry. See Free entry. (2) Letters of regress (Sc.), the right of re-entry on redemption granted by the superior (mortgagee) to the wadsetter (mortgagor).

Regulæ generales (General Rules), which the courts promulgate from time to time for the regulation of their practice.

Regular clergy or Regulars, monks, who live by the rules of their respective societies.

Re-hearing, is where an action is tried a second time after judgment has been pronounced. As originally in the Court of Chancery the Master of the Rolls and the Vice-Chancellors tried an action as representatives of (vice) the Lord Chancellor, the appeal to the latter was both in name and in form a re-hearing. Appeals to the Court of Appeal are now by way of re-hearing, so that that Court may review the whole case, hear fresh evidence, &c. See 12 Ch. D. 97—99.

Re-insurance, is where an insurer, in order to lessen his liability, re-insures the thing insured to a third person.

Re-issuable notes, are those which may be re-issued after payment without a fresh stamp. For this an annual licence is required.

Rejoinder, see Pleadings.

Relation. In certain cases the law treats an act or legal proceeding as if it had taken place at an earlier date than is actually the case: e.g. an adjudication of bankruptcy relates back to the first act of bankruptcy (q. v.) committed by the bankrupt within the preceding year. Similarly, letters of administration relate back to the death of the intestate. (2) See Relator.

Relationship, see Kin. That ex parte paternâ is traced through the father; ex parte maternâ, through the mother.

Relator. An information (q. v.) in Chancery (for which an action is now substituted), where the rights of the Crown are not
immediately concerned, is brought on the relation (*ex relatione*) of a person called a relator or informer, who is responsible for costs.

**Release**, a discharge or renunciation of a right of action. (2) A common law conveyance, the operative verb in which is "release;" it operates in four ways, (a) by passing an estate (*mitter l'estate*); (b) by passing a right (*mitter le droit*); (c) by extinguishment; (d) by enlargement. See those titles, and *Lease* and *Release*.

**Releasee**, he to whom a release is made by a *releasor*.

**Relocation**, temporary exile or banishment, which does not produce civil death. See *Abjuration*.

**Relevancy**, is the degree of connection between a fact tendered in evidence, and the issue to be proved. An irrelevant fact is one which has no such connection and is therefore inadmissible in evidence (*q. v.*). In Scotch law a plea to the relevancy is analogous to a demurrer.

**Relictâ confessione**, was where a judgment was confessed by *cognovit actionem*, after plea pleaded, and the plea was withdrawn.

**Relief**, legal remedy for wrongs, see *Forfeiture*. (2) A payment which the tenant made to the lord on coming into possession, or taking up (*relevare*) of an estate. (3) See *Poor-law*.

**Relinquishment, Deed of**, is the means whereby a priest or deacon may divest himself of holy orders.

**Relocation** (Sc.), a renewal of a lease; *tacit relocation* is permitting a tenant to hold over without any new agreement.

**Rem, Action in**, see *Action*. By proceedings in *rem* the property in relation to which the claim is made, or the proceeds of such property in court, can be made available to answer the claim, and be proceeded against.

**Rem, Judgment in**, a judgment which gives to the successful party possession of some definite thing.

**Remainder**, that expectant portion or residue of interest in lands or tenements which, on the creation of a particular estate, is at the same time limited over to another, who is to enjoy it after the determination of such particular estate. A *vested* or executed remainder is one which is ready to come into possession immediately the particular estate determines; otherwise it is a *contingent* or executory remainder, *e.g.*, a limitation to an unborn person. No remainder can be limited to the child of an unborn person after a life estate to the latter. See *Perpetuity, Remoteness*. Prior to 40 & 41 Vict. c. 33, which applies only to contin-
gent remainders created after that Act, no limitation could be construed as a springing or shifting use, or as an executory devise (see those titles), if it could be construed as a contingent remainder; and every contingent remainder to be valid must have vested during the continuance of the particular estate, or at the instant it determined. Cross remainders arise where land is limited in undivided shares to two (or more) persons for particular estates, in such way that on the determination of one particular estate it goes to the owner of the other.

**Remainder-man**, a person entitled to a remainder (*q. v.*)

**Remand**, to re-commit a person to prison. (2) To adjourn a hearing.

**Remanet**, the name given to a cause the trial of which has been postponed from one sitting to another.

**Remedy**, the legal means to recover a right or redress a wrong.

**Remission**, a pardon under the great seal.

**Remit**, to send back an action to an inferior court for the purpose of taking the steps necessary to carry out the decision of the superior court. (2) To send back to custody.

**Remitter**, Where he who has a title to lands, but is out of possession, obtains possession under some other, and, of course, defective title, he is remitted by operation of law to his ancient and better title; and is held to be *in* by virtue thereof.

**Remittitur damnum** (*the damage is remitted*), an entry on the record by a plaintiff who either is given by the jury greater damages than he has declared for, or is willing to give up some part.

**Remoteness**, want of sufficiently close connexion between a wrong and the resulting injury to entitle the party injured to claim compensation from the wrong-doer. The damage is then said to be "too remote." (2) Limitations are *void for remoteness*, which infringe the rule against perpetuity (*q. v.*). See also Possibility.

**Removal**, of actions, from one division or judge to another, can only be ordered by the Lord Chancellor, or a judge. See R. S. C., 1883, Ord. XLIX., 1—3. As to actions in District Registries, see *ib.* Ord. XXXV. (2) Of paupers, see Settlement, Irremovability.

**Rendred**, see *Profit*.

**Renewal, of lease**, a re-grant of an expiring lease for a further term. See *Writ of Summons*.

**Renounce**, to give up a right. An executor who declines to prove his testator's will is said to "renounce probate."
Rent, a periodical payment (usually made in money, but which may be in kind or in service), due by a tenant of land or other corporeal hereditament to his landlord. Payment of it operates as an acknowledgment of tenure. Rent-service is another name for the rent ordinarily paid by a tenant, and is so called because, in theory, it has some service, e.g., fealty, incident to it. It may be enforced by distress (q. v.). A peppercorn rent is one purely nominal, and stipulated for merely as an acknowledgment of tenure. Ground-rent is that paid by the lessee of a building (q. v.) lease to the owner of the land, or ground landlord. Dead rent, a fixed minimum rent paid by the lessee of a mine, &c. Rent-reck (siccus, dry or barren), is one which is not enforceable by distress. (Abolished by 4 Geo. II. c. 28.) Rent-charge, is the grant of money charged on lands and made payable to one who has no interest in the reversion. It is usually made enforceable by distress and entry. (See Tithe.) Fee-farm rent, or chief rent, is one payable by the owner of an estate in fee, e.g., by freeholders of a manor. (See Quit-rent.) These are also called Rents of assize. Fore-hand rent, one payable in advance. See also Hack-rent, Apportionment.

Rent-boll (Sc.), see Teinds.

Re-patriation, recovery of the rights of a natural born subject by one who has expatriated himself or become a statutory alien.

Repleader (to plead again). Motion for a repleader used to be made where the pleadings failed to raise a definite issue. See now Amendment.

Replevin, a personal action ex delicto brought to recover possession of goods unlawfully taken (usually by distress for non-payment of rent), the validity of which taking it is the regular mode of contesting, if the person distrained on (otherwise called the distressor or replevisor) wishes to recover the goods in specie; otherwise he may bring an action for trespass or unlawful distress. The replevisor may reprieve or obtain return of the goods on giving security, by a replevin bond with two sureties, to bring an action against the distrainer for the wrongful taking. See Aroury, Cognisance, Capias in withernam, Second deliverance, Retorno.

Replevisable goods, those for which an action of replevin may be brought.

Reponing note (Sc.), see Reclaiming.

Report, see Referenc. Law Reports, see the list of abbreviations at the end of volume. The Reports (Rep.) were compiled by Lord Coke, 14 Eliz. to 13 Jac. I.
Representation, is where one person represents, or stands in the place of another, e.g., an agent of his principal, or an executor of his testator. In cases of intestacy, children are said to represent their deceased parent, who take the place which that parent would have taken if alive. As regards real estate, lineal descendants ad infinitum represent their ancestor. As regards personality, representation does not go further than nephews and nieces. See Kin. (2) See Misrepresentation.

Reprisal, the taking one thing in satisfaction for another. Reprisals are resorted to between nation and nation when no other means of obtaining redress is open. General reprisals in time of war are the giving of letters of marque (q. v.). See Embargo, Capture. (2) See Re-caption.

Reprobate, see Approbate.

Republication, a second execution of a will after cancellation or revocation.

Repugnant, that which is contrary to or inconsistent with something else. In a deed the first, in a will the second, of two inconsistent gifts, &c., prevails. A repugnant condition is void.

Reputation, Evidence of general, see Hearsay. (2) See Libel.

Reputed ownership, apparent ownership from the fact of having possession of a thing. See Order and Disposition.

Request, see Courts of, Letters of.

Requisitions on title, are enquiries made by a purchaser of the vendor with reference to defects of title appearing on the abstract. These the vendor, in the absence of conditions protecting him, is required to answer.

Res gestæ, all the things done (including words spoken) in the course of a transaction.

Res integra, a subject or point not yet decided.

Res inter alios acta alteri nocere non debet.—(A transaction between other persons should not prejudice one who was not a party to it.)

Res ipse loquitur (the thing speaks for itself, i.e., no proof is required.) A phrase used in actions for injury by negligence.

Res judicata, a point already judicially decided; it is conclusive until the judgment is reversed.

Res mancipi (Roman law), things which could be sold.

Res nullius, a thing which has no owner.

Res sua nemini servit.—(No one can have an easement over his own property.) See Easement.

Re-sale, a second sale of the same thing by the same person.

Rescission, the rescinding or putting an end to a contract by the parties, or one of them, e.g., on the ground of fraud.
**Rescissory action** (Sc.), one to rescind or annul a deed or contract.

**Rescue** or **Rescous**, the act of forcibly taking out of the hand of the law a person or thing; *e. g.*, a prisoner or distress.

**Reservation**, in a grant, is the reserving of some new thing to the grantor (*e. g.* rent), out of the thing granted.

**Reserving points of law** (to be argued before the full court). For this the Appellate Jurisdiction Act, 1876, and R. S. C. 1883, Ord. XXXVI., r. 3, substitute a re-hearing on further consideration before the same judge.

**Reset of theft** (Sc.), receiving of stolen goods.

**Resiance**, residence.

**Residence**, place of abode or of carrying on business. It is of importance with reference to the law of domicile (*q. v.*) and to the founding of the court's jurisdiction.

**Residuary devisee**, the person named in a will who is to take all the real property remaining over and above the other devises which are capable of taking effect.

**Residuary legatee**, the person to whom the surplus of the personal estate, after the discharge of debts and legacies, is left by the testator's will. He takes all lapsed legacies.

**Residue**, the surplus of a testator's or intestate's estate after discharging all his liabilities (including legacies, &c., if any).

**Resignation**, the surrender of a living by the holder. An undertaking under seal to resign on demand, called a resignation bond, is now only lawful in certain cases specified by 9 Geo. IV., c. 94.

**Resolution**, the expression of opinion by a meeting. Under the Companies Acts it is *(a)* ordinary, *(b)* special, or *(c)* extraordinary: *(a)* is one passed by a simple majority at an ordinary meeting; *(b)* and *(c)* require a majority of three-fourths in number at a meeting specially summoned for the purpose; and *(b)* further requires confirmation at a subsequent meeting. Under the Bankruptcy Act, 1869, *(a)* must be passed by a majority *in value* of the creditors; and *(b)* and *(c)* require a majority in number and three-fourths in value; another distinction being that *(c)* and not *(b)* requires subsequent confirmation. Under the Bankruptcy Act, 1883, there are no extraordinary resolutions; *(a)* and *(b)* being left as defined by the Act of 1869. *(2)* Rescision of a contract.

**Resolutive clause** (Sc.), see *Irritant*.

**Resort**, Court of last, one from which there is no appeal.

**Respectum**, Challenge propter, see *Challenge*.

**Respite**, to dispense with. *(2)* To postpone.
**Respondeat ouster** (*let him answer, or plead, over*).—Prior to the Judicature Acts this judgment was given where a defendant or criminal failed in substantiating a dilatory plea, so that the case had to be gone into on the merits.

**Respondent,** the person against whom a petition, an appeal, or an action in the Probate, Divorce, and Admiralty Division is brought.

**Respondentia,** differs from bottomry (*q. v.*) in being an hypothecation of the cargo only.

**Respondeat superior.—** (*Let the principal be held responsible.*)

**Responsa prudentum,** the opinions and decisions of learned lawyers, which formed part of the Roman laws.

**Rest,** see *Account.*

**Restaur,** or **Restor,** the remedy or recourse which assured have against each other, according to the date of their assurances. (2) The remedy of a person against a guarantee.

**Restitutio in integrum,** the rescinding of a contract or transaction on the ground of fraud, &c., so as to *restore* the parties to their original position.

**Restitution,** a restoring, *e.g.,* of stolen goods to their lawful owner. *Writ of restitution,* the means by which a successful appellant may recover any thing which he has been deprived of under the prior judgment.

**Restitution of conjugal rights.** Whenever a husband or wife is guilty of the injury of *subtraction,* that is, of living separate from the other without any sufficient reason, the Court will compel the respondent to resume cohabitation, on petition brought by the other party for restitution of conjugal rights.

**Restitution of minors** (*Sc.*), the restoring them to rights lost by deeds executed during their minority.

**Restraining order,** an injunction. (2) An order prohibiting the Bank of England or any public company from transferring stock on its books or paying dividends until further order.

**Restraint of marriage.** On grounds of public policy, conditions attached to a gift to a person who has never been married, in *general* restraint of marriage, are void. This does not apply to conditions against second marriage, or marriage with a particular person.

**Restraint of trade.** Contracts prohibiting a person from carrying on a particular trade are void, unless limited either as to time or area.

**Restraint on alienation.** A married woman may be restrained from alienating her separate property, this protection
against marital influence being deemed advisable by the Court. See Anticipation.

Restrictive indorsement, one prohibiting or limiting the further negotiation of a bill of exchange, cheque, &c. See 45 & 46 Vict. c. 61, s. 35, Indorsement.

Resulting trust or use, one that arises from the operation or construction of equity, where the legal estate is transferred, and no trust or use is expressly declared, nor any consideration or evidence of intent appears to direct the trust or use, which then results or comes back to the original grantor.

Retainer, the engagement of a solicitor by a client, or of counsel by a solicitor, to give his professional services either generally, or in some particular proceeding. (2) The document containing such engagement. (3) Retainer by an executor or administrator, is his right to pay his own debt out of the assets of his testator in priority to all other debts of equal degree.

Retiring a bill, is withdrawing it from circulation by paying it when it has become due.

Remono habendo, when the defendant has judgment in replevin (q. v.) for the return of the goods replevied, he can enforce the judgment by a writ of delivery (formerly by a writ de remono habendo).

Retorsion, retaliation by one sovereign state against another.

Retour (Sc.), an extract from the Chancery of the service of an heir to his ancestor. See Service of an heir.

Retraction, the withdrawal of a renunciation of probate. See Renounce.

Retractit, an obsolete proceeding analogous to a nolle prosequi (q. v.), except that it barred any future action.

Return, a report by an officer (e.g., to a writ), or by a public company, &c., as to their position. (2) Return irreplevisable, see Second.

Reverse, to set aside a judgment on appeal.

Reversion, that portion left of an estate after a grant of a particular portion of it has been made to another person by the owner or reversioner; e.g., on the creation of a term of years out of a fee there is a right of reverter in the grantor, so that the fee returns to him on the determination of the term.

Reversionary interest, that which is to be enjoyed at a future time, after the determination of an intermediate estate. It is usually applied to interests in personalty analogous to a reversion in land. As to reversionary interests of married women see 20 & 21 Vict. c. 57. See Expectant heir.

Reversionary lease, one to take effect in futuro. (2) A second lease to commence after the expiration of a former lease.
Reverter, see Reversion.

Review, see Bill of Review, Enrol.

Revising Barristers, are junior barristers appointed to revise the lists of voters for members of parliament.

Revive, to resuscitate a right of action, e.g., for a debt barred by the Statute of Limitations, by acknowledging it; or for a matrimonial offence once condoned, by committing another.

Revivor, see Bill of Revivor. (2) Writ of, one brought to revive a judgment owing to lapse of time (six years), change of parties, or the like. Obsolete.

Revocation, the recalling or withdrawing of a grant, e.g., of a gift by will, an agency, &c. See Letter of Attorney. (2) The making void of a deed, will, or other instrument. A will may be revoked (a) by another will; (b) by burning or other act done with the intention of revoking; (c) by the disposition of the property during the testator’s lifetime; (d) by marriage.

Rex non potest peccare.—(The king can do no wrong.)

Rex nunquam moritur.—(The king never dies), i.e., the Crown never falls vacant.

Rhodian law, an ancient code of maritime law.

Riens in arrear, the plea in action of replevin that there is nothing (i.e., no rent) in arrear.

Right, is the correlative of obligation. It may be (a) personal or public; (b) primary or secondary; (c) in rem or in personam (see Jus). Right of action, is the right to bring one. It was formerly opposed to a right of entry, which may be either original, or reserved by deed, e.g., by a lease, for breach of covenant.

Right to begin. The person on whom lies the affirmative of the issue has in general the right to begin, i.e., to be the first to address the court. But in any action where the plaintiff seeks to recover damages of an unascertained amount, he is entitled to begin, though the affirmative be with the defendant.

Rights, see Bill of, Petition of.

Riot, a tumultuous disturbance of the peace by three or more persons assembled of their own authority. By the Riot Act, 1 Geo. I., st. 2, c. 5, twelve or more persons unlawfully assembled to the disturbance of the peace, and refusing to disperse after proclamation, are felons punishable by penal servitude for life.

Riparian owner, one who has rights to or connected with the banks of a river.

Risk, the danger insured against. (2) The liability of the insurer. See Insurance.

Robbery, is theft from the person accompanied by violence or threats.
Roe, Richard, the fictitious defendant in ejectment (q. v.).

 Rogatio legis (Roman law), see Lex. Rogatio trittium, bidding persons present to be witnesses to a nuncupative will.

 Rolls, a record entered on a long strip of parchment which can be rolled up; e.g., the Patent and Close Rolls. See Letters Patent, Letters Close, Master of the Rolls.

 Rolling stock, of a railway company is exempted from execution, and also from distress for rent when in use on the lines of persons other than the company.

 Root, see Purchaser, Title.

 Roup (Sc.), auction.

 Rout, is a lesser form of a riot (q. v.).

 Royal fish, whale and sturgeon, which belong to the Crown when washed ashore, or caught near the coast.

 Royalty, payment to a patentee, composer, &c., on every article made under the patent, &c. (2) Payment to the owner of mines, &c., varying according to the amount actually gotten.

 Rule of court. When a submission to arbitration has been made a rule of court, the award can be judicially enforced, as if it were an order of the court.

 Rules, orders regulating the practice of the court, e.g., the Rules of the Supreme Court made under the Judicature Acts. (2) Orders made between parties to an action. See Absolute, Motion. (3) Rules of law, e.g., see Shelley's case.

 Run, to take effect in point of place, e.g., the Queen's writ in given localities, or in point of time, e.g., the Statute of Limitations. (2) Of a trading ship in time of war, to sail without convoy

 Run with the land, see Covenant.

 Running days, as opposed to working days, include Sundays See Lay-days, Demurrage.

 Rural deans, are deputies of the bishop, and their office a sub-division of an arch-deaconry. Their chief duties are to execute processes directed to them by the bishop, to supervise the conduct of the parochial clergy, and to examine candidates for confirmation.

S

S. C., same case.

S. O., stand over (of a summons, &c.)

S. P., sine prole, without issue.

Sacrilege, breaking into or out of a church, accompanied by the commission of a felony therein.
Sale, a transfer of the absolute or general property in a thing for a price in money. See Bargain, Bill of Sale.

Sale note, see Bought.

Salic, or Salique Law, an ancient law of the kingdom of France, in virtue of which males only can reign.

Salus populi (or reipublicae) suprema lex.—(The safety of the commonwealth is the highest law.)

Salus ubi multi consiliarii.—(Where there are many counselors there is safety.)

Salvage, compensation made to those (called salvors) by whose skill and exertions ships or goods are saved. Equitable salvage, or allowance in the nature of salvage, is sometimes given in cases other than maritime, where by some payment, e.g., of a premium on a policy, the salvor has preserved the property from forfeiture or loss.

Salvo (salvo jure), without prejudice to.

Sanction, of a law, is the power of enforcing it. (2) Consent.

Sans nombre, Common, a right to pasture beasts, uncertain as to number (not unlimited).

Sans recours. See Without recourse.

Satisfaction, compensation for an injury. (2) Payment of money owing. Entry of satisfaction is made when a judgment has been satisfied by payment or execution. In equity, satisfaction of a debt, or of a portion (g. v.), or legacy pro tanto, may be made by the debtor, &c., leaving a legacy or giving a portion to the person to whom the debt, &c., would otherwise have been payable.

Satisfied terms. See Term.

Satius est petere fontes quam sectari rivulos.—(It is better to seek the source than to follow the streamlets), i.e., it is better not to trust to quotations.

Scandal, a libellous statement or action. (2) In pleading, matter which is indecent, charges which are irrelevant, and the like. All such the court has power to strike out.

Scandalum magnatum, words spoken in derogation of a peer or judge, or other great officer of the realm. They formerly constituted a special offence.

Scienter (knowingly, wilfully), an allegation in the pleading that the defendant, &c., did the thing in question wilfully. It must be proved in an action of deceit (g. v.).

Scintilla juris et tituli (a spark or fragment of law and title). The doctrine of scintilla juris or possibility of seisin, which was a legal refinement arising out of the operation of the Statute of Uses, was formally abolished by 23 & 24 Vict. c. 38, s. 7.
Scire debes cum quo contrahis.—(A man ought to know with whom he is contracting.)

Scire et scire debere aequiparantur in lege.—(The law considers a man cognisant of that which he ought to know.) Cf. Ignorantia legis non excusat.

Scire facias (cause to know), a judicial writ, founded upon some record, and requiring the person against whom it is brought to show cause why the party bringing it should not have advantage of such record, or why the record should not be annulled and vacated. It is deemed an action, and the defendant can plead to it; but in some cases it is an original writ, in others it is rather a writ of execution. See Patent.

Scire feci, the sheriff's return on a scire facias, that he has given notice to the party against whom it was issued.

Scot and lot voters, those who have a vote in some boroughs by virtue of paying customary contribution.

Scribere est agere.—(Writing is equivalent to doing, i.e., in some crimes, as treason, writing is sufficient proof of intent.)

Scrip certificate, or scrip, is an acknowledgment by a company that the holder of the scrip is entitled to a specified number of shares, &c., therein.

Script, an original (or draft) will or codicil.

Scrivener, one who draws contracts, or places money out at interest for his clients, receiving a commission.

Scutage, escuage (q. v.).

Seal. See Deed. Motion days in the Court of Chancery used to be called seal-days.

Search, Right of, is that which men of war have in time of war in order to ascertain whether the ship searched or her cargo is liable to seizure. See Contraband.

Searches, are usually made by a purchaser or his solicitor in the various registers to see whether there are any incumbrances (e.g., a judgment or lis pendens) affecting the land purchased. See 45 & 46 Vict. c. 39, s. 2.

Seek. See Rent.

Second deliverance, a second writ which was allowed to a plaintiff in replevin (q. v.) who was nonsued. If he was again nonsued, the defendant obtained a writ of return irreplevisable, which absolutely barred the plaintiff's claim. See Nonsuit.

Secret trust, a gift by a testator upon a trust not committed to writing. If the trust be contrary to law, the gift fails altogether.

Secta, the witnesses (followers) of a plaintiff. (2) A service (q. v.).
Security, may consist of (a) a personal promise, or (b) an obligation of property (called a real security) to satisfy the loss secured against, e.g., the case of a mortgage; (b) may be on a specific property, or on property of a certain general description, which is called a shifting or floating security. Some kinds of security originate in legal proceedings, e.g., security for costs, security to keep the peace.

Secus (otherwise), to the contrary effect.

Sederunt. See Acts of.

Sedition, an offence against the Crown or government, not amounting to treason, but calculated to bring them into odium; stirring ill-will between Her Majesty's subjects.

Seduction, Action of, may be brought by a parent or master for debauching his daughter or servant. The woman has no right of action, being a consenting party.

Seignory, the relation of a feudal lord to his tenants. (2) A manor (q. v.) or lordship.

Seisin, is feudal possession, as distinct from mere possession or occupation. A person was "seised in deed" when actual possession was taken; "seised in law," e.g., by descent, before taking possession. The doctrine of seisin is no longer of importance. See Entry, Livery, Grant, and next title.

Seisin facit stipitem.—(Seisin makes the stock of descent (q. v.).) This maxim no longer expresses the law. See Purchaser.

Seizure quoque, may be made by a lord of the land of a deceased copysholder until the heir pay the fine due on admittance.

Self-defence. See Homicide se defendendo.

Semble [abbrev. semb. or sem.], (it seems). Used in reports to show that a point is not decided directly, but may be inferred.

Semper in dubis benigniora praemissa.—(In doubtful matters the more liberal construction is to be preferred.)

Semper in obscuris quod minimum est sequi num.—(In obscure constructions we always follow that which is least obscure.)

Semper præsumitur pro matrimonio.—(The presumption is always in favour of the validity of a marriage.)

Semper præsumitur pro negante.—(The presumption is always in favour of the negative.) See Proof (Burden of).

Sentence, judgment in an ecclesiastical or criminal proceeding.

Separate estate, is property belonging to a married woman for her separate use, independently of her husband and his debts, as if she were unmarried. It is the "creature" of equity. See Married Women's Property, Anticipation, Restraint, Husband.

Separation, of husband and wife, is an agreement to live
apart. It is usually contained in a separation deed. An agreement for future separation is invalid. (2) See Judicial.

Separation order, may be made if a husband commit an aggravated assault on his wife, and may provide for her maintenance by him, and for custody of the children.

Sequestrari facias, a writ commanding a bishop to enforce a judgment against a beneficed clergyman by taking the rents and profits of the living.

Sequestration, is a prerogative process in the nature of a continuing execution addressed to certain commissioners, empowering them to sequester the rents and personal estate of a person in contempt for disobedience of a decree or order, and to keep the same until the defendant clear his contempt. (2) See Sequestrari.

Seriatim (severally and in order).

Serjeants-at-arms, officers of the Crown, one of whom attends in each House of Parliament and one the Lord Chancellor. The chief duty of the latter is to arrest persons guilty of contempt of court in the Chancery Division.

Serjeants-at-law, or of the coif, barristers of superior degree who formerly (till 1846) enjoyed a monopoly of audience in the Court of Common Pleas. Prior to the Judicature Act, 1873, every common law judge must have taken this degree. The order is gradually becoming extinct.

Serjeanty (service). See Grand, Petty.

Service, the duty which a tenant owes his lord in respect of his estate. Free service was opposed to bare or villein service, the former consisting (e.g.) in payment of rent, the latter (e.g.) in ploughing the lord's land. Casual or accidental services (casualties, etc.), which were also called incidents of tenure, were such as wardship and heriot. With the exception of rents, few services now remain except in manors (q. v.) and in respect of copyhold land. See Feud. (2) The relationship of servant to master. (3) The formal mode of bringing a judicial proceeding to the notice of the person affected by it. See Address.

Service of an heir. In Scotch law it is necessary for an heir to be served before he acquires a complete title to the estate of his ancestor. In order to be served he must prove his title; since 1847 this is done on petition to the sheriff. Retour of service, now the extract of the decree of service, is in the nature of a title deed held by the heir, being a certified copy of the finding of his heirship.

Servient tenement. See Baronet.

Session. See Court of, Wales.
Sessions. See County, Petty, Special, Quarter.

Set. A drawer frequently gives to the payee several parts, called a set, of the same bill (q. v.) of exchange, any one of which being paid, the others are void. This is to obviate possible inconveniences from loss or miscarriage.

Set-off, a cross or counter-claim. A counter-claim had originally to be made by cross-action, in which the defendant in the first action was plaintiff; but by 2 Geo. II., c. 22, it was allowed to raise a set-off as a defence in certain cases of mutual debts, which did not include a claim founded in damages, or in the nature of a penalty. See now, however, Counter-claim.

Sett, Action of (Sc.), one by a part-owner of a ship against his co-owners to obtain a sale of his share or of the whole ship.

Sett of a burgh (Sc.), its constitution.

Settled land, land limited by way of succession to a person other than the one for the time being entitled to the beneficial enjoyment thereof, who is called a limited (q. v.) owner. Prior to 1856, settled estates could not be sold or leased except under the authority of the instrument by which they were settled, called the settlement, or of a private act. By Acts of that year and of 1877, and by 45 & 46 Vict. c. 38, which largely extends the Act of 1877, various powers are given to limited owners, emancipating them from the control of their trustees, and enabling them to deal with the settled property for purposes of improving it, or benefiting the parties interested therein (see ss. 45 and 53 of 45 & 46 Vict. c. 38).

Settlement, a deed, will, or other instrument whereby land is settled (see Settled Land). The principal kinds of settlements are (a) marriage or ante-nuptial, (b) post-nuptial, and (c) family settlements, also called re-settlements. (a) is founded on the consideration (q. v.) of the marriage, and is binding on the settlor; but (b) is voluntary, and may be avoided by the settlor by selling or mortgaging the settled property (see 27 Eliz. c. 4, which, however, does not apply to chattels personal). By the Bankruptcy Act, 1883, s. 29, ante-nuptial settlements and contracts to settle are in certain cases treated as fraudulent, and the debtor is in consequence refused an order of discharge. Voluntary settlements are in certain cases void as against the settlor's trustees in bankruptcy. (See ib. s. 47.) See Equity, Conveyance. (2) A pauper is said to be settled in a union or parish when he has a right to permanent relief there, as opposed to casual and to irremovable paupers. (See those titles.) Settlement is original, e.g., by birth or residence, or derivative, e.g., by marriage. See Poor law.
Settlement, Act of, 12 & 13 Wm. III. c. 2, by which the Crown is limited to her Majesty’s house, being Protestants.

Settling-day (Stock Exchange term), the day on which transactions for the “account” are made up.

Sever, to divide. A joint tenancy is severed when one joint tenant conveys his share to a stranger. (2) To remove growing crops, fixtures, &c. (3) Defendants are said to sever in their defences when they plead independently.

Several, distinct, separate, as opposed to joint (q. v.). Thus, a several covenant is one by two or more separately; a several fishery is an exclusive right to fish; a several tenancy is a tenancy in common.

Severally. Persons are said to hold lands or tenements in severalty who are sole owners of ascertained shares therein. The term usually bears reference to a time when the estate in severalty was, or is, joined with some adjoining estate; e.g., before it was partitioned, or, in the case of adjoining commonable lands, as soon as each owner in severalty has reaped his crop. See Shack.

Sewers, Metropolitan Commissioners of, were appointed under 11 & 12 Vict. c. 112, and abolished by 18 & 19 Vict. c. 120, their functions being transferred to the Metropolitan Board of Works (q. v.) and the district boards and vestries.

Shack, Common of, the right of persons owning adjoining lands which they hold in severalty for the purpose of growing the yearly crop, to turn out cattle to graze over the whole common field after the several crops have been harvested.

Share, in a company, is a certain portion of the capital entitling the shareholder to a proportionate part of the surplus profits, otherwise called a dividend. A fully paid share is one on which the whole nominal amount has been “called up” or paid. A share warrant is a certificate stating that the bearer is entitled to a specified number of shares in the company. See Scrip, Limited Liability, Joint Stock.

Sheading, a riding or division in the Isle of Man.

Shelley’s case, Rule in. Where a life estate, either legal or equitable, in freehold or copyhold, is limited by any assurance to a person, and by the same assurance the inheritance of the same quality, i.e., either legal or equitable, is limited by way of remainder (with or without the interposition of any other estate) to his heirs or the heirs of his body, such remainder is immediately executed in possession in him, the word “heirs” being treated as a word of limitation and not of purchase, so that he takes the inheritance, either in fee simple or tail, as the case may be.
Sheriff, the chief officer of the Crown in every county. (See *Pricking.*) His chief duties are to superintend elections and execute processes, which he does by his deputy and bailiffs. Formerly he had a judicial authority in the *Sheriff's Tourn* (or Court) and the County Court, and this still survives in Scotland.

*Shew cause, see Absolute.*

*Shewers,* those who take a jury to view a place, &c.

*Shifting clause,* one which "shifts," or takes away, property from one person to give it to another, on the happening of a certain contingency or non-fulfilment of a condition. *Shifting use,* see *Use.*

*Ship.* The ownership of every registered ship is divided into sixty-four shares, but not more than thirty-two persons can be registered as part-owners. See *General.*

*Ship-broker,* is a middleman between the mercantile and shipping communities, to procure freights and negotiate the sale of ships.

*Ship's husband,* is a person appointed by the owners of a ship to manage on shore all matters connected with the employment thereof, such as repairs and affreightment. He is frequently a part-owner.

*Ship's papers,* documents required to prove the ownership of a ship and her cargo. They include her certificate of registry, charter party, passport, and bill of health.

*Short cause,* an action in the Chancery Division in which there is no point requiring lengthy discussion, and which is therefore certified as "short" by the plaintiff's counsel.

*Shorthand writer's notes,* of evidence at a trial, are often taken for future use on appeal, &c. The expense of them is allowed only in exceptional cases.

*Si non omnes,* a writ of association of justices, by which, if all in commission cannot meet at the day assigned, it is allowed that two or more of them may finish the business.

*Sic utere tuo ut alienum non laedas.*—(Use your own rights so that you do not hurt those of another.)

*Side-bar rule,* one which could be moved for by a solicitor at the *side bar* of the Court. Obsolete.

*Sides-man,* an assistant to a churchwarden.

*Sight,* Bills payable at, are by 45 and 46 Vict. c. 61, s. 10, made equivalent to those payable on demand.

*Sign-manual,* the signature of the Sovereign.

*Signature,* the name or mark (see *Marksman*) of a person subscribed (or printed) by himself or by his direction.

*Signet, Privy,* the seal of the Sovereign, which is kept and
affixed by the principal Secretary of State. (2) Writers to the
Signet in Scotland perform functions analogous to those of
solicitors here.

Significavit, the writ de contumace capiendo (see Excommu-
nication).

Silk, Taking, is becoming a Queen’s Counsel (q. v.).

Similiter (in like manner). The joinder of issue was formerly
so called.

Simony, or Simoniacal Contract, the offence of purchas-
ing a vacant presentation, or if the offender be a clergyman, any
next presentation (q. v.). Such contracts are void by 31 Eliz. c. 6.

Simple. See Contract, Debt, Larceny, and next titles.

Simple trust, is where property is vested in one person
simply upon trust for another, the nature of the trust not being
further declared by the settlor.

Simple warrandice (Sc.), an obligation to warrant or secure
from all subsequent and future deeds of the grantor.

Sine die (without day, or indefinitely).

Sine prole (often written s. p.), without issue.

Sine secure, a rectory without care of souls. (2) An office which
has revenue without any employment.

Single bond (simplex obligatio), see Bond.

Singular successor (Sc.), a purchaser or other assign, as
opposed to an heir, who takes by a general title of succession or
universal representation.

Sittings. By the Judicature Act the division of the legal
year into terms is abolished, and sittings are substituted, viz.,
the Michaelmas, Hilary, Easter, and Trinity Sittings. (2) Sittings
also mean the place where a Court sits, e.g., in camerâ (q. v.).

Six Acts, 60 Geo. III., and 1 Geo. IV., cc. 1, 2, 4, 6, 8, and 9,
passed to put down seditious meetings.

Six Articles, Law of, 31 Hen. VIII. c. 14, styled “An
Act for abolishing Diversity of Opinions;” it enjoined con-
formity to six of the chief points in the Romish religion.
Repealed by 1 Eliz. c. 1.

Six Clerks in Chancery, were officers of the Masters of the
Rolls who did, prior to their abolition by 5 & 6 Vict. c. 103, the
duties of the Records and Write Clerks and the Clerk of Enrol-
ments.

Skilled witnesses, witnesses who are allowed to give
evidence on matters of opinion and abstract fact. See Expert.

Slander, the malicious defamation of a person in his reputa-
tion, profession, or business, by words, as a libel is by writing.
To impute a criminal offence or misconduct in business is
slander actionable without proof of special damage; but in any case proof of special damage arising from the false and malicious statements of another is a sufficient ground of action. Slander of title is only actionable on such proof being given. See Malice, Libel.

Slip, a preliminary agreement or memorandum of agreement for a policy of marine insurance.

Small Debts Courts, the original of the County Courts (q.v.).

Smuggling, the offence of importing or exporting prohibited articles, or of defrauding the revenue by importing or exporting goods without paying duty on them.

SoC, jurisdiction. (2) Privilege. (3) A shire or territory.

Socage, tenure by any certain or determinate service. It was (a) free, or (b) villein socage, according as the service (q.v.) was free or base. All forms of socage except common socage, which is the modern freehold tenure, were abolished by 12 Car. II. c. 24. A tenant in socage was called a soc-man or socager.

Socii mei socius, meus socius non est.—(The partner of my partner is not my partner.)

Solutium (Sc.), extra damages allowed in certain actions in addition to the actual loss suffered, as consolation for wounded feelings.

Sole, single. See Feme, Corporation.

Solicitor, a person employed to conduct legal proceeding, or to advise on legal questions. A solicitor of the Supreme Court of Judicature must have served a term as an articled clerk, and have been duly admitted and enrolled, and must take out a yearly certificate authorising him to practise. Solicitors practise as advocates at petty sessions, quarter sessions (where there is no bar), in County Courts, Judges’ Chambers, Bankruptcy Court, and most of the inferior courts.

Solicitor-General, a law officer of the Crown, ranking next to the Attorney-General (q.v.). He is usually a member of the House of Commons.

Solas Deus facit hæredem, non homo.—(God alone makes the heir, not man.) See Hæres, Heir.

Solvit ad diem, was a plea in an action of debt, that the money was paid at the day appointed.

Solventur in modo solventis. See Quicquid &c.

Son assault demesne (his own assault), the plea of self-defence in an action of assault.

Sound in damages. An action is said to, when it is brought for the recovery of unascertained damages.

Sovereign, The, is the person in whom the supreme executive power of the State is vested. As ultimus hæres, or “ultimate
heir," he is entitled to all lands or chattels of persons dying intestate without heirs or next of kin. As 
"pater patriae," or "father of his country," he is invested with certain rights of 
guardianship over infants, idiots, and lunatics, which he delegates 
to the Lord Chancellor. Of him it is said that the king can do 
no wrong, which means that he cannot personally be sued either 
in a criminal or civil court. See Prerogative, Civil List, Regalia.

Speaking, see Demurrer.

Special, see Constable, Indemnity, and following titles.

Special case. The Judicature Act provides (see R. S. C., 1883, 
Ord. XXXIV,) that the parties may, after writ issued, concur in 
stating the questions of law arising in the action in the form 
of a special case for the opinion of the Court. They must there- 
fore agree as to the facts; the Court may also infer facts not 
expressly stated. No pleadings are required.

Special damage, a particular loss resulting from the wrong- 
ful act complained of.

Special defence, in a County Court. A defendant must 
give notice to the plaintiff when he intends to rely on a defence 
of set-off or counter-claim, infancy, coverture, statute of limita-
tions, bankruptcy, or equitable defence.

Special demurrer, a demurrer (q. v.) to a point of form in 
pleading.

Special examiner, one appointed by the parties with leave 
of the Court. See Examination.

Special pleaders, members of an inn of court, usually not 
called to the bar, who devote themselves mainly to the drawing 
of pleadings, and to attending at judges' chambers.

Special pleading, the science of pleading. (2) A technical 
plea, as opposed to one on the merits.

Special sessions, a meeting of two or more justices, con-
voked for a special purpose or at a special time.

Special tail, where an estate-tail is limited to the children 
of two given parents, as to A. and the heirs of his body by B.

Special verdict, a special finding of the facts of the case, 
leaving to the court the application of the law to them.

Specific legacy, see Legacy.

Specific performance. Equity (now the Chancery Division) 
enforces specific performance of a contract whenever damages 
would not adequately compensate for its non-performance; 
e.g., in the case of contracts concerning land, or for the sale of 
a specific or unique chattel; but where the Court cannot effec-
tively enforce its decree, as in the case of a contract to sing, the 
plaintiff must content himself with damages.
Specificatio (Roman Law), was a form of accession (q. v.), by which he who by his labour converted the material of another into a new product became owner of the product; he was, however, liable to compensate the owner.

Specification, is a description of the nature and subject-matter of a patent furnished by the inventor (a) on application, which is called the provisional specification; (b) on grant of the letters patent, which is called the complete specification; (a) protects the invention from infringement or loss of novelty (q. v.) for a period which cannot be less than nine months, and may exceed a year. See 46 & 47 Vict. c. 57, ss. 8, 9, 14.

Spiritual, see Corporation, Houses.

Spiritualism, is an offence under 5 Geo. IV., c. 83, by which any person attempting, by palmistry or otherwise, to impose on others, is punishable as a rogue and vagabond.

Spoil, Spoil bank, refuse from an underground working.

Spoliation, a suit in a Spiritual Court to determine the rights of two incumbents claiming under the same patron.

Sponsor (Roman law), a surety who, being a Roman citizen, bound himself by the word spondeo. His heirs were not bound. The fidemjuro (q. v.) was of later introduction. See Fidepromissor.

Spoliatus debet ante omnia restitu. (A person who has been robbed ought first of all to have his goods restored.)

Springing use, see Use.

Spuillez (Sc.), taking away moveables belonging to another, without his consent.

Spunging-house, a private house where a debtor was formerly confined for twenty-four hours before being imprisoned.

Squeeze out, see Tack.

Stakeholder, one with whom a stake is deposited pending the decision of the wager, &c.

Stale demand, one which has not been made for so long that it must be taken to be waived.

Stallage, the privilege of erecting a stall within a market.

(2) The payment due for the same.

Stamp duties, a branch of the revenue, levied by means of stamps affixed to various instruments, e.g., a cheque, bill, or deed (see 33 & 34 Vict. c. 97). The rate of duty may vary with the nature of the instrument, or with the value of the property passing thereunder, in which latter case it is called an ad valorem duty. An instrument requiring a stamp cannot be used as evidence in court until it has been properly stamped and a penalty of £10 paid; and some, e.g., promissory notes, cannot be stamped at all after execution.
Standing by, acquiescence (q. v.).
Standing mute, see Mute.
Standing orders, general regulations concerning the procedure in each of the Houses of Parliament.

Stannary, a tin mine. There are stannary courts in Devonshire and Cornwall for the administration of justice among the miners. They are courts of record resembling the palatine courts: the judge is called a vice-warden. By the Judicature Act the appeal is to the Court of Appeal.

Staple, a mart anciently appointed to be held at Westminster, Newcastle, &c. A court was held before the Mayor of the Staple, which was governed by the law merchant. Statute of the Staple, 27 Edw. III., st. 2.

Star Chamber, see Camera Stellata.

Stated account, see Accounts.

Statement of Claim. The mode in which a plaintiff begins his pleading, substituted by the Judicature Act for the former Bill or Declaration. See Bill, Pleading.

Statement of Defence. This form of pleading is now substituted for the former Plea or Answer of a defendant.

Statement of Particulars. Under R. S. C., 1883, Ord. XIX., rr. 6, 7, a further statement of particulars of any matter stated in any pleading, notice, &c., may be ordered by the Court.

Status, the condition of a person in the eye of the law. By the Roman law this had reference to freedom, citizenship, and capacity to contract. A pauper is said to have a status of irremovability. (2) By analogy a thing is said to have a status.

Status quo, the existing state of things at any given date. Status quo ante bellum, the state of things before the war. To leave in status quo, is to leave unaltered.

Statutable or Statutory, by statute, as opposed to the rules of equity or common law.

Statute, an Act of Parliament. It may be (a) declaratory, i.e., one which does not alter the existing law, as opposed to remedial or amending : (b) enabling, i.e., removing restrictions, as opposed to disabling. Statutes may also be either public or private, the latter including those which have a special application to particular persons or places. The public general statutes are called the Statutes at large. (2) A statute-merchant or statute-staple (q. v.).

Statute-barred. Debts barred by the Statute of Limitations (q. v.) are so called.

Statute Merchant, a bond of record, under the seal of the debtor and of the Crown, execution on which was immediate,
without the necessity of mesne process. It is now obsolete. See Pocket judgment.

Statute of Frauds, of Uses, &c., see Frauds, Uses, &c.

Statute-Staple, a bond of record under the seal of the debtor and of the staple (q. r.); after the debtor's lands and goods had been seized, a writ of liberate (q. r.) had to be issued before the creditor could get possession of them. Obsolete.

Stay of proceedings, in an action, may be (a) temporary, e.g., pending appeal, or where there is an action pending elsewhere (in alibi pendens) to determine the same question, or one which should be first determined; (b) permanent, which may also be effected by a discontinuance (q. r.).

Steelbow Goods (Sc.), corn, cattle, &c., advanced by a landlord to a tenant to enable him to stock his farm.

Stent (Sc.), a tax or duty.

Stet billa (may the bill, or claim, stand), the prayer of a plaintiff who has attached goods of a debtor, upon the latter disputing the debt.

Stet processus, an order of the court to stay proceedings made, strictly, only by consent of the parties, and entered on the record. See Stay.

Stovedore, a person whose business it is to undertake the stowage and discharge of cargoes.

Steward, of a manor, the lord's deputy, who transacts the legal and other business of the manor, keeps the court-rolls, &c. (2) See High Steward. (3) See Marshalsea.

Stillicidium (Roman law), the right aquæ immittendae (q. r.).

Stint, limit. Common without stint is one unlimited as to the number of beasts that may be pastured there, or as to the time of pasturing. See Sans nombre. (2) A limited right of pasture. (3) A right of pasture or common pasture ground.

Stipendiary estate, one granted in return for services (q.r.).

Stipendiary magistrates, those who are paid. They have, acting alone, the same jurisdiction and powers as two justices of the peace have sitting together.

Stipulation, a bargain, proviso, or condition.

Stirps, see Per Stirpes.

Stock, a family. (2) See Purchaser. (3) The capital or joint property of a company or business. (See Joint-stock). (4) Capital which is capable of being held in any amount, e.g., the public funds, as opposed to shares, which are fixed as to amount.

Stock-broker, one who buys and sells stocks, shares, &c., as
the agent for others. He is not permitted by the rules of the
Stock Exchange to act also as a stock-jobber (q.v.), or to be in
partnership with one. The system of swearing brokers is obsolete.
any one being admitted a broker by the Court of Mayor and
Aldermen, who is not under disability, on payment of £5. See
Stock Exchange.

Stock certificate, a certificate of title to stock in the public
funds, transferable by delivery, and entitling the bearer to the
stock therein mentioned, and the dividends thereon. A trustee
may not hold one unless specially authorised so to do.

Stock Exchange, an association of stock brokers and
jobbers, governed by rules framed by the committee of the
"House." Membership is acquired by yearly election by the
Committee; only members and their clerks being admitted into
the "House." (2) The building where the business of the
Exchange is carried on.

Stock-jobber, one who deals in stocks, shares, &c., on his
own account. See Stock-Broker, Stock Exchange.

Stop-order. Any person entitled to a fund in Court may
apply, on petition or summons, for an order to prevent any
dealing with the fund without notice to the applicant.

Stoppage in transitu. An unpaid vendor may, in case of
the vendee's insolvency, stop the goods sold in transitu, i.e.,
before they reach their destination (terminus ad quem), or, in
the case of warehoused goods, before delivery is complete, pro-
vided he has not given the purchaser documents sufficient to pass
the property in the goods, which documents the latter has parted
with to a third person bona fide.

Stowage, money paid for housing goods. (2) The method of
lading a ship. See Steredore.

Stranding, of a ship, within the meaning of an ordinary
policy of insurance, must be by some accidental occurrence.

Stranger, one who is not a party to a deed, proceeding, &c.

Straw, see Man of.

Strictissimi juris (of the most strict law), i.e., to be most
strictly applied.

Strike, an organised refusal of workmen to work. (2) See
Nominating, Docket.

Striking off the roll. Removing the name of a solicitor
from the rolls of the court, and thereby disentitling him to
practise. It is usually done for gross misconduct.

Striking-out Defence. This may now be done as a
punishment for default in making discovery or allowing inspec-
tion after an order to do so. See R. S. C., 1883, Ord. XXXI., r 20.
Stuff-gown, a junior barrister, so called from the material of his robes. See Silk.

Style, an appellation, title, or official name. (2) See Neur.

Sub-agent. In the absence of an express authority to employ a sub-agent, there is no privity of contract between a principal and any one employed by his agent.

Subduct, to withdraw (probate).

Subinfeudation, see Quia Emptores.

Sub-lease, an under-lease (q.v.).

Submission, see Arbitration, Rule of Court. It may be particular, i.e., of a specific matter in dispute, or general.

Sub modo, under condition or restriction.

Sub silentio, in silence.

Subornation, the offence of procuring another to commit a crime, e.g., perjury.

Subpœna, a writ commanding attendance in a court under a penalty. See Citation, Writ of summons. The Subpœna ad testificandum is personally served upon a witness, to compel him to attend and give evidence. (2) The Subpœna duces tecum is personally served upon a person who has in his possession any book, instrument, &c., the production of which in evidence is desired. Four witnesses can be included in one subpœna, whether in civil or criminal cases.

The following subpœnas have in past times been in use in Chancery suits. (3) Subpœna to appear and defend; (4) Subpœna to hear judgment; (5) Subpœna served upon an infant on attaining majority, to give him an opportunity to show cause against a decree; and (6) Subpœna to name a solicitor where the solicitor of a party has died, and such party refuses to appoint another.

Subreption, the obtaining a gift from the Crown by concealing what is true.

Subrogation, substitution of one person for another, the person substituted acquiring and undertaking the other’s rights and obligations. He is then said to be subrogated to the other’s rights.

Subscribe, to write under (see Underwriter); (2) to make oneself liable for something.

Subsequent, following after. A condition subsequent is one which if not performed defeats or diverts a right or estate already existing or vested. See Condition, Precedent.

Subsidy, see Aids.

Substantial damages, are opposed to nominal. See Damages.
Substituted Executor, one appointed to act in the place of another executor upon the happening of a certain event, e.g., if the latter should refuse the office.

Substituted service. On special occasions where it is impossible to serve a defendant, &c., personally, service (q. v.) of a writ of summons is allowed on some person who represents him, or who is likely to bring it to his knowledge, e.g., his solicitor, wife, &c. See R. S. C., 1883, Ord. IX., r. 2, Ord. X.

Substitution (Roman law), a conditional appointment of an heir. (2) In Scotch law, the enumeration of a series of heirs described in technical language. They are called substitutes. See Institution.

Substitutional gift, one which substitutes the issue of a person dying for the person himself, so that there is no lapse if he leaves issue surviving.

Subsumption of libel (Sc.), a statement of the crime alleged.

Subtraction, the neglect or refusal to perform a duty or service, or to pay rent, tithe, or the like.

Succession duty, is that payable under 16 & 17 Vict. c. 51, whenever a person becomes beneficially entitled to property upon the death of another, which is called a succession; the person succeeding is the successor; the person dying, the predecessor. The rate of duty varies from one per cent. in the case of a lineal descendant, to 10 per cent. in that of a stranger in blood.

Successor, the technical word in the case of a corporation, answering to "heirs, or executors or administrators," in the case of a person proper. (2) See last title.

Sucken (Sc.), the lands astricted to a mill, the tenants of which are bound to grind their corn there, and are called insucken multitures, those who use it voluntarily being outsucken multitures. See Multure.

Sue, to bring a civil action.

Sue and labour clause, in a marine policy, is one entitling the assured, in case of accident to the subject of assurance, to take steps for its recovery or protection without prejudice to the policy.

Sufferance, Tenancy at, arises when a person, after his right to the occupation, under a lawful title, is at an end, continues in possession without title, and without any agreement with the person in whom the right of possession resides. See Double rent, Holding over.

Sufferance wharves, those on which goods may be landed before duty is paid.

Suffragan, see Bishop.
Suffrage, vote, elective franchise. (2) Aid.
Suggestio falsi, see Misrepresentation.
Sui juris (of his own right). A person who is neither a minor nor insane, nor subject to any other disability, is said to be sui juris, i.e., able to deal with his property.
Suicide, one who kills himself. See Felo de se.
Suit, a civil action. To put in suit, is to enforce.
Suit of Court, the attendance which a tenant owes at his lord's court. It is seldom required.
Suitors' Fee Fund, a fund in the Court of Chancery into which the fees of suitors in that court were paid, and out of which were defrayed the salaries of various officers of that court.
Summary, short, speedy, as opposed to plenary or regular (see Cause). Summary jurisdiction is the power of a court to give judgment or to make an order forthwith without further preliminaries, such as committing for trial. See 42 & 43 Vict. c. 49.
Summing up, evidence at a trial, is repeating it concisely for the purpose of showing its effect.
Summons, an official document commanding the person to whom it is addressed to appear before the court or its officer for a certain purpose. Matters of detail in an action are usually settled by a summons in judges' or masters' chambers. An originating summons is one by which a matter is initiated, and is analogous to the writ of summons (q. v.) in an action. (2) See Debtors' summons.
Summum jus, summa injuria.—(The strictest administration of the law sometimes works the greatest injustice.)
Sumptuary laws, those in restraint of luxury and excessive expenditure: all repealed by 1 Jac. I., c. 25.
Superfluous lands, see Pre-emption. If not sold within ten years they become the absolute property of the adjoining owners.
Superinstitution, a second institution (q. v.) to a church which is already full. See Quare impedit.
Superior (Sc.), the grantor of a feudal right. See Lord.
Supersedeas, a writ by which proceedings are stayed.
Superstitious uses, are religious purposes not recognised by law, as opposed to charitable uses.
Supplemental bill, an addition to an original bill in equity, in order to supply some defect in its original frame and structure, or to allege facts subsequently occurred. If the parties were thereby changed, a bill in the nature of a supplemental bill was had recourse to. See now Amendment.
Suppletotry oath, the oath of a litigant party in the spiritual and civil law courts.
Suppliant, the party preferring a petition of right.

Suplicavit, a mandatory writ directing justices to require security to keep the peace from a person named. Disused.

Support. To support a rule or order is to argue in favour of it. (2) The right of support to land or a building is the right not to have it let down by the act of an adjoining or, as in the case of mines, an underlying owner. It may be acquired for a building by twenty years uninterrupted enjoyment.

Suppressio veri, see Misrepresentation.

Supra (above). This word occurring by itself in a book, &c., refers the reader to a previous part, like ante.

Supreme Court of Judicature, was substituted by the Judicature Acts, 1873 and 1875 (as modified by the Appellate Jurisdiction Acts, 1876), for the superior courts of law and equity previously existing. It consists of (a) the High Court of Justice, and (b) the Court of Appeal. See those titles, and Divisions, Judicature.

Sur (upon). The old forms of writs began with this word to express the ground of action.

Surcharge, To, a common, is to put more cattle on it than one has a right to do. (2) To surcharge a person in an account is to insert credits which have been omitted and which ought to be allowed. To surcharge and falsify (q. v.) is a mode of taking accounts in the Chancery division. (3) To make a person individually liable for a payment.

Surety, one who makes himself responsible for the due fulfilment of another's obligation. In case the latter, who is called the principal, fails himself to fulfil it. If he discharges the obligation he is entitled to be repaid by his principal, and, meanwhile, to an assignment of all securities held by the creditor or obligee.

Surmise, an allegation in a libel (q. v.).

Surplusage, in pleading, is the allegation of unnecessary matter, which is forbidden.

Surprise, is ground for the setting aside of a contract, judgment, or order by the court. See Mistake.

Surrebutter, Surrejoinder, see Pleading.

Surrender, is the yielding up of an estate for life or years (especially of a lease) so that it merges in the fee or reversion. It may be by deed or by operation of law. It is also the usual mode of alienating copyholds, and, when conditional, of mortgaging them. Prior to the Wills Act, 1837, copyholds had to be surrendered by the copyholder to the uses of his will.

Surrogate, one appointed by a bishop, &c., to act for him.

Survivorship, is the becoming entitled to property by reason
of surviving another who had an interest in it. See Joint, Death.

Sus. per coll. "Let him be hanged by the neck;" abbr. for suspendatur per collum.

Suspension, of an estate or right, takes place where it is temporarily extinguished but may afterwards revive. (2) Of a clergyman, is where he is deprived of his living, or of the right to officiate, for a time. (3) In Scotch law, is equivalent to a stay of proceedings (q. r.).

Syndic, an agent or attorney of a corporation.

T.

T. This letter used to be branded on the hand of those who were admitted to benefit of clergy (q. r.).

Tacit, unexpressed except by silence.

Taciturnity (Sc.), a presumption of satisfaction of a debt arising from non-claim under peculiar circumstances.

Tack, a lease. (2) An addition.

Tacking. A mortgagee who has the legal estate in the property mortgaged and who makes a subsequent advance to the mortgagor without notice of an intermediate advance, may tack his second to his first mortgage and recover both before the intermediate mortgagee can recover anything. He is thus said to squeeze out the other mortgagee.

Tail. An estate-tail is a freehold of inheritance, limited to a person and the heirs of his body in tail general or special (i.e., limited to particular heirs of his body), male or female. See Donis, Recovery, Protector.

Tail after possibility of issue extinct, Tenant in, is an estate which may arise out of a special tail, as where an estate tail is limited to a husband and wife and their issue; on death of either without issue the survivor becomes tenant in tail after possibility &c.

Tail ex provisione viri, Tenant in, a woman who had an estate tail in property of her husband, or given by any ancestor of her husband to her and him jointly in tail. Obsolete.

Tailzie (Sc.), an arbitrary line of succession laid down by a proprietor, in substitution of a legal line of succession.

Tales de circumstantibus. If a sufficient number of jurors do not appear upon a trial, or if by means of challenges or exemptions a sufficient number do not remain, either party may pray a tales (i.e., a supply of such men as are summoned
upon the panel) in order to make up the deficiency. Those so summoned are called Talsemen.

Talfourd's Act (as to copyright), 5 & 6 Vict. c. 45.

Tam quam, a writ of error from inferior courts, when the error is supposed to be as well in giving the judgment as in awarding execution upon it.

Taxation, the levying of tribute or imposts from the subject. Direct taxation is that assessed on each individual, e. g., an income or poll tax; indirect, is that levied on articles, e. g., customs and excise; so called because the tax is not levied on the consumer directly but on the producer, who adds it to the price. (2) Taxation of costs is the process of checking a solicitor's bill, which is done by an official called in different divisions of the High Court taxing master, registrar, or master. See also 6 & 7 Vict. c. 73.

Teinds court (Sc.) is a commission for the plantation of churches and settling of stipends of ministers out of the tithes of the various parishes. The commissioners are the judges of the Court of Session.

Teinds (Sc.), decima or tithes. The parsonage or rectorial tithe is of corn; the xicarial tithe of lesser fruits, e. g., cattle, fowls, &c. The latter can be lost by the negative prescription; the former cannot. Lords of Erection or Titulars (of the Tithes) are lay grantees of church lands from the Crown. Rental bolls were a stated quantity of bolls of corn given to the tithe owner yearly instead of his actually drawing the tenth of the produce.

Teller (Sc.), a cashier.

Temple, two inns of court, called Inner and Middle, anciently the dwelling-place of the Knights-Templars.

Temporalities, the secular possessions of a see.

Tenancy, the condition or estate of a tenant. (2) The term for which he holds. (3) The land which he holds. See Joint.

Tenancy in common, is where two or more persons have undivided possession but distinct estates in any subject of property, in equal or unequal shares, and either by the same or by different titles. On the death of a tenant in common his share goes to his representative, and not, as in a joint tenancy (q. v.), to the survivors.

Tenant, one who holds land, usually by service (q. v.); a lessee.

Tenant at sufferance, see Sufferance.

Tenant at will, one who holds land at the will of the lessor. A tenancy at will may be determined by either party at will, and the death of either party determines the tenancy. The lessee cannot transfer his estate. See Tenancy from year to year.

Tenant by copy (scil: of court roll), a copyholder.
Tenant by the verge (or rod), a copyholder.
Tenant for life, one who has the right to property for his own or another's life. See Autre vie.
Tenant for years, one who holds for a term: a lessee.
Tenant from year to year, one whose tenancy can only be determined at the end of a complete year or number of years from the commencement of his holding, and upon due notice given, in ordinary cases six months (see Agricultural Holdings Act). A lease at an annual rent under which no certain term is fixed creates not a tenancy at will but one from year to year. See Year to year.
Tenant in fee, Tail, &c., see Fer, Tail, &c.
Tenantable repair, such a repair as will render a house fit for habitation.
Tenant-right, a custom entitling an outgoing tenant of a farm to compensation for unexhausted improvements. See the Agricultural Holdings Act, 1883. (2) The money so paid as compensation. (3) In Ireland, a custom either ensuring a permanence of tenure without liability to any other increase of rent than may be sanctioned by local custom, or entitling a tenant to receive purchase-money from an incoming tenant, for what may be called the goodwill of his farm. See the Land Law (Ireland) Act, 1881.
Tender, an offer. A tender of satisfaction may be made in most actions for money demands. By the Coinage Act, 1870, silver coinage is a legal tender up to 40s., bronze coins up to 1s., and Bank of England notes for sums over £5.
Tenement, everything that may be held, provided it be of a permanent nature, whether it be corporeal or incorporeal. (2) A house. See Easement.
Tenendum (to be held), that clause in a deed (q. v.) wherein the tenure of the land is stated, how and of whom it is to be held.
Tenor, the purport and effect of a document, as opposed to its actual words. (2) It is sometimes opposed to "effect," to signify a correct copy. (3) See Executor.
Tenterden's Act, Lord, 9 Geo. IV. c. 14, supplements the Statute of Frauds, and requires the following inter alia to be in writing: (a) acknowledgments of debts that are statute-barred; (b) representations as to a person's character or solvency made in order to obtain him credit, &c.; (c) executory contracts for the sale of goods.
Tenths, a tribute of a tenth of the annual value of an ecclesiastical benefice, according to the valuation made in Henry VIII.'s reign.
Tenure, the mode of holding property or office. Tenure of land was formerly *alodial* or *feudal*, the latter being held of a superior, the former not. All land is now in theory held of the Crown (see *Quia emptores, In capite*) mediately or immediately. See *Service, Estate, Mesne, Paramount*. Lay tenures were divided into (a) frank tenements or freehold, and (b) villenage; (a) into (i.) military tenures (as to which see *Knight service*, *Grand Serjeanty*, and *Cornage*) and (ii.) free socage (see *Burgage, Gavelkind*). Ecclesiastical tenures, which were not abolished by 12 Car. II., c. 24, with the other feudal tenures, are frank almoign (q. v.), and tenure by divine service, c. g., to sing so many masses, for neglect of which the lord can distrain at once.

**Terce** (Sc.), dower. See *Life-rent*.

**Term**, an end or limit; so, a period; and especially, a term of years for which land is let. Such terms are chattels real (q. v.), and pass to his personal representatives on the death of the termor. Long terms are frequently created for the purpose of securing the payment of money, e. g., pin-money or jointure, under a settlement, being limited to trustees with power to raise and pay the necessary sum out of the rents and profits. A *satisfied* term is one the purposes of which have been accomplished. An *attendant* or *outstanding* term is one which on becoming satisfied is assigned in *trust* to attend the *inheritance* in order to prevent it from becoming merged and letting in subsequent incumbrances. By 8 & 9 Vict. c. 112, every attendant term is to cease and determine *ipso facto*, but the protection it would have afforded if subsisting is preserved. A term not attendant is called a *term in gross*. By the Conveyancing Act, 1881, s. 65, long terms originally created for not less than 300 years, of which 200 or more remain unexpired, may be *enlarged* into freehold if there is no money rent payable, and no trust or right of redemption existing in respect thereof. (2) As to law terms, see *Sittings*. (3) To be under *terms*, is to be subjected to certain conditions as a consideration for some indulgence shown by the court.

**Terminus ad quem**, the destination. See *Stoppage*.

**Terminus a quo**, the starting point.

**Terre (or ter) tenant**, one who holds, or has the seisin of, land.

**Terrier**, a register or survey of land.

**Territorial waters**, are those within three miles from the coast of a country; by international law they are held to be within the jurisdiction of that country, so that even foreign ships within that distance are under its control.
Test Act, 25 Car. II. c. 2, by which all persons holding office or trust under the Crown were obliged to take the oath of allegiance (q. r.) and supremacy, and also to subscribe a declaration against transubstantiation, and to receive the Lord’s Supper according to the usage of the Church of England. Repealed 1829.

Testable, having testamentary capacity. All men and unmarried women of full age and sane mind may make a will, and married women may do so as to their separate estate, or by consent of their husbands. See Will.

Testament, is properly a will or disposition of personal property. The word is, however, used generally as equivalent to “will” (q. r.).

Testamentary, relating to a will, e. g., capacity (see Testable). (2) Given or appointed by will, e. g., a guardian (q. v.)

Testamentary causes, proceedings in the Probate Division relating to wills and intestacies of personal property.

Testamentum omne morte consummatum.—(Every will is perfected by death.)

Testate, one who dies having made a will.

Testator, testatrix, one who makes a will.

Testatum, the witnessing part of a deed (q. r.) or other formal instrument. It follows the recitals, where there are any, and introduces the operative part of the instrument by the words, “Now this indenture witnesseth,” or the like.

Testatum writ, one issued into a county other than that in which the venue was laid, a return of nulla bona having been made to the prior writ issued into the latter county. Abolished by the C. L. P. Act, 1852.

Teste, the witnessing part of a writ, warrant, &c. All writs are issued in the name of the Sovereign, and tested in that of the Lord Chancellor or Lord Chief Justice.

Testes ponderantur non numerantur.—(Witnesses are weighed, not numbered), i.e., the mere number of the witnesses brought forward to prove any fact is not so important as their credibility, judgment, &c.

Testimonium clause, the attesting clause in a will.

Testimony, vivâ voce evidence (q. r.).

Text book, a legal treatise which lays down principles or collects decisions on any branch of the law.

Theft, larceny (q. r.).

Thellusson Act, 39 & 40 Geo. III. c. 98, forbids the accumulation of money (i.e., investing the interest from time to time as it accrues, so as to obtain compound-interest), except for the purpose of paying debts or raising portions, for a longer
period than (a) the settlor’s life, (b) twenty-one years from his death, or (c) the minority of any person living or in ventre sa mère at the settlor’s death, or who would, under the settlement or will, be entitled for the time being, if of full age, to the income directed to be accumulated.

Third party, one who is a stranger to a proceeding, not being plaintiff or defendant. A third party against whom a defendant claims indemnity or other remedy over may be introduced into the action under R. S. C., 1883, Ord. XVI., r. 48, &c.

Thirsgs, Widows’. See Jus Reditae, Dower.

Thirlage (Sc.), a tenure or servitude by which a tenant was bound to carry his corn to a certain mill to be ground, the payment, which was in kind, being called a multure. It was commuted by 39 Geo. III., c. 55.

Thirty-nine Articles. See Articles.

Tholed an assize, Plea of having, in criminal actions, is equivalent to a plea that the prisoner has stood trial already.

Three A’s, Rule of the, is that an attorney, agent, or arbitrator may be added as a party and made liable for costs.

Ticket of leave, a licence to be at large, granted to a convict for good behaviour, and recallable for misconduct.

Tidal rivers. See Fishery.

Tidesman, a tide waiter or custom-house officer.

Tigni immittendi (scil. Jus, Roman law), the right of inserting a beam or timber from the wall of one house into that of a neighbouring house, in order that it may rest on and be supported by the latter.

Timber, is properly only oak, ash, and elm, i.e., trees used for building. It is realty until severed, when it becomes personal estate. See Waste.

Time. See Day, Month, Year, Essence. “From time immemorial,” or “time out of mind,” means, in law, from time “whereof the memory of man runneth not to the contrary.” See Memory.

Time bargains, on the Stock Exchange, options (q. v.).

Tinsel (Sc.), “irritancy” or forfeiture.

Tipstaff, an officer of a court whose duty it is to arrest persons guilty of contempt, and to take charge of prisoners.

Tithes, were originally the tenth part of the yearly profits of (a) lands, (b) the stock upon lands, and (c) the personal industry of the cultivator; the first being called pradial, the second mixed, and the third personal tithes. They were formerly paid in kind, being due by the inhabitants of a parish for the maintenance of the parish church, and were called rectorial (c—
great tithes) and vicarial (small or lesser tithes), according as they were payable to the rector (lay or spiritual) or to the vicar. See Teinda. Under the Tithe Commutation Acts, 1836, &c., a rent charge varying with the price of corn has in most cases been substituted for payment in kind, and the modes (q. v.) payable by custom. Extraordinary tithes are those payable on certain kinds of crops, e. g., hops, in addition to the ordinary tithe. As to the Tithe Commissioners, see Land Commissioners.

Tithing, a local division forming part of a hundred (q. v.).

Title, a general head comprising particulars, as of a book or an action. (2) An appellation of honour or dignity. (3) A claim of right. Title, in this sense, may be original, as in the case of an inventor’s title to a patent, or derivative, where the owner takes from a predecessor. A marketable title to land is one which the courts will force on an unwilling purchaser; it should go back 40 years, showing that the vendor and his predecessors have enjoyed the land as of right for that period; the deed with which the title commences is called the root of title. A safe holding title may, however, be gained by virtue of adverse possession for twelve years under 37 & 38 Vict. c. 57, s. 1, and 3 & 4 Wm. IV., c. 27, s. 34, provided that there is no adverse claimant under disability. See Limitations. As to title by wrong, see Feoffment. Covenants for title are given by vendors and mortgagees; they are (a) for right to convey, (b) for quiet enjoyment, (c) for freedom from incumbrances, and (d) for further assurance when called on. By the Conveyancing Act, 1881, s. 7, these covenants are implied in every conveyance and mortgage, and need not now be inserted.

Title deeds, the muniments or evidences of ownership to land. They pass ipso facto by grant of the land to which they relate, unless the grantee reserve the right to retain them, which is necessary where they relate also to other property. See Title.

To have and to hold (habendum et tenendum (q. v.)), words in a conveyance showing the estate to be taken by the grantee.

Tocher (Sc.), dowry, marriage portion.

Toft, a place where a house has formerly stood.

Toll, To, to bar or take away, e. g., a right of entry.

Toll, a payment for passage over a road, ferry, &c. Toll thorough is paid for passing over a public, toll traverse over a private, highway or land.

Tonnage, wine duties formerly granted, with poundage (q. v.), to the Crown. See Prisage.

Tonnage-rent, a royalty payable on every ton of mineral gotten.
Tontine, a system of granting life-annuities with benefit of survivorship among the annuitants.

Tort, injury or wrong. Actions are divided into actions on contract, actions on tort, and actions on tort arising out of contract. See Damage, De son tort.

Tortfeasor, a wrongdoer; a trespasser.

Tortious, wrongful, or by wrong. See Peoffment.

Torture, was last used as a means of extorting evidence in the year 1640. It was also called the question.

Totidem verbis (in so many words).

Toties quotes (as often as occasion shall arise).

Tourn. See Sheriff.

Tout temps presz (or prist) et encore est (always was and is at present ready), a defendant’s plea in actions for breach of contract, that he always has been and still is ready to fulfill it.

Town, technically means a collection of houses where there is or has been a church and celebration of divine service. It may be either a city, borough, or common town.

Town Clerk, an officer, usually a solicitor, who manages the legal business of a Town Council, i.e., the council of a municipal borough.

Trade. See Restraint, and next titles.

Trade-mark, a mark, signature, or device affixed to an article or to the wrapper, &c., in or with which it is sold, to show that it is manufactured or selected by a special person or persons. The Act 38 & 39 Vict. c. 91, provides for the registration of trademarks, and enacts that no one shall sue for infringement of a trade-mark until it is so registered. (2) In a wider sense, any distinctive mark or sign, even though incapable of registration, which has come by custom to be associated with the produce or make of a particular person or persons. Trade names are included under this head. The test of infringement is whether the defendant used the mark, name, &c., which is alleged to constitute the infringement, with the object of palming off his goods as those of the plaintiff. See Merchandise.

Trader, under the bankruptcy law includes several persons. e.g., market-gardeners, who are not usually so designated, while it excludes farmers, graziers, and some others. The Act of 1869 subjected traders in some respects to more stringent provisions than other persons; but the Act of 1883 (c. 52) has placed traders in the same category with non-traders (see e.g., ss. 46 (2), 47). Previous to the Act of 1861 non-traders were not liable to be made bankrupt.
Trade-union, an association of workmen in any trade. It usually has for one of its chief objects the protection of their interests as against their employers, e.g., by organizing strikes for raising of wages. Molestation (q. v.) is an illegal method of enforcing the decisions of a trade-union. By 34 & 35 Vict. c. 31, and 39 & 40 Vict. c. 22, trade-unions may be registered, and then they enjoy certain of the privileges of friendly societies.

Teritio loqui facit chartam.—(Delivery makes a deed speak, i.e., come into operation.) See Escrow.

Transcript, a copy, especially an official copy.

Transfer, to pass from one to another, to convey. Under the Land Transfer Act, 1875, registered land can be transferred or mortgaged by a statutory form, and by entry on the register. As to transfer of causes from one judge or division to another, see R. S. C. 1883, Ord. XLIX.

Transhipment. In cases of necessity a master may tranship his cargo; i.e., take it out and load another vessel with it.

Transire, a warrant or certificate that a ship has paid customs dues and may therefore sail. This constitutes her clearance.

Transitory actions, those the venue of which could be laid in any county. Venue (q. v.) is abolished by the Judicature Act.

Transitus. See Stoppage.

Transportation. See Penal Servitude, Ticket of leave.

Transumpt (Sc.), a copy. Action of transumpt resembles our proceedings for production of documents.

Traverse, in pleading, is the denial of some matter of fact alleged. Traverse of office, is a denial that an inquisition of lands or goods made by the Crown is correct. To traverse an indictment is to get it postponed.

Traversing note, a general denial of the plaintiff's case, which, prior to the Judicature Act, a plaintiff had to file on behalf of a defendant who neglected to answer interrogatories, before he could set down the cause for hearing.

Treason, or lese-majesty, an offence against the duty of allegiance. Petty treason, e.g., where a servant killed his master, is now abolished. High treason includes, besides offences against the Queen's Majesty, the killing of a Lord Chancellor or of certain other high officials. It is now punishable by hanging only. "drawing" to the place of execution on a hurdle and "quartering" having been abolished in 1870. Mispriision of treason is concealing it. Treason felony is inter alia an act showing an intention to depose the Queen, or to intimidate the Parliament: see 11 & 12 Vict. c. 12. A treasonable intention must be evi-
denced by some overt act. Two witnesses are required to obtain a conviction for treason.

**Treasure-trove**, money, plate, bullion, &c., found hidden in the earth or any private place, the owner of which is unknown; it belongs to the Crown.

**Treating**, providing food, drink, or entertainment. It is one form of bribing a voter. See 46 & 47 Vict. c. 51, s. 1.

**Treaty**, a negotiation preliminary to an agreement. (2) A compact between nations.

**Treble.** See *Double or treble.*

**Trespass**, any transgression of the law, less than treason felony, or misprision of either. It is especially used of *trespass quare clausum fregit*, i.e., entry on another’s close (*q. v.*) or land without lawful authority. **Trespass on the case or Case** is a general name for torts which had no special writ or remedy prior to 13 Edw. I., c. 24, and for which by that statute new writs were, when necessary, to be framed on the lines of those already existing. See *Actiones nominatae, Brecc.*

**Trespasser**, one who commits a trespass. A *trespasser ab initio* is one who having lawfully entered does something he is not entitled to do; his trespass, or wrong, then “relates back,” and he is a trespasser *from the beginning.*

**Trial**, the examination of a cause, civil or criminal, by a competent tribunal; the decision of the issues of law or fact in an action. It may be by a judge or judges, with or without a jury (*q. v.*), or assessors (*q. v.*). See *New Trial, Bar, Reference, Notice of trial,* R. S. C. 1883, Ord. XXXVI.

**Trinity House**, a society at Deptford Strond, incorporated by Hen. VIII., to which are entrusted various duties connected with the marine, *e.g.*, regulation of pilots and lighting of the coast. **Trinity Masters** are “elder brethren” of the Trinity House. They usually act as assessors (*q. v.*) in Admiralty actions.

**Trinity term.** See *Hilary, Sittings.*

**Trinoda necessitas* (the threefold necessity),* three taxes to which all lands were formerly liable, viz., bridge-bote, burg- (fortress) bote, and fyrd (military contribution). See *Frank-almoign.*

**Triers or triers,** persons chosen by the court to decide on challenges (*q. v.*) to a jury.

**Tripartite,** divided into three parts. A deed to which there are three distinct parties.

**Trover, or trover and conversion,** was a special form of *trespass* (*q. v.*) *on the case,* based on the finding (actual or fictitious)
by the defendant of goods lost by the plaintiff. The necessity for a fictitious allegation of the finding was abolished by the C. L. P. Act, 1852, s. 49. Trover as a distinct form of action no longer exists; it is no longer a technical form of action.

**Truck Act**, 1 & 2 Wm. IV., c. 37, made illegal the payment of wages *(q. v.)* in goods instead of money, which was called the *truck system*. Cf. 46 & 47 Vict. c. 31.

**True bill**, the endorsement which the grand jury *(q. v.)* makes upon a bill of indictment when, having heard the evidence, they are satisfied that there is a *primâ facie* case against the accused. See *Ignoramus.*

**Trust.** A trust is a confidence, reposed by one person (sometimes called the *trustor*) either expressly or impliedly in another (called the *trustee*), for the benefit of the trustor or of a third person (the beneficiary in either case being called the *cestui que trust, or c. q. t.*); not, however, issuing out of real or personal property, but as a collateral incident accompanying it, annexed in privity (or attaching) to the interest in such property, and also to the person *(i.e., the trustee)* having such interest; for the enforcement of which confidence the *cestui que trust,* prior to the Judicature Acts, had his remedy in equity only. Now, however, equitable rights are recognized and enforced in all the courts; but the Chancery Division still has assigned to it the execution of trusts charitable or private. Trusts are divided into *(a)* simple (where the trustee holds the property in trust for the *c. q. t.*), and *(b)* special or active (where he has special duties or trusts to perform in relation to it); in the first case the *c. q. t.* may call for an immediate conveyance to himself; *(b)* are either ministerial (imperative) or discretionary. Again, trusts are either *(a)* express or implied (which includes precatory *(q. v.)*), *(b)* public (charitable) or private, *(c)* executed or executory. Trusts arising by operation of law are either resulting or constructive. See *Cy-près,* and the various titles.

**Trustee,** see *Trust, Bare, Limitation of Actions.* Trustee Acts are those passed to enable *cestuis que trustent* to get new trustees appointed by the Court in the room of those who are incapable, unfit, or unwilling to act, or who cannot be found. (See now the Conveyancing Act, 1881, ss. 31—34.) Trustee Relief Acts are those enabling trustees in proper cases to discharge themselves of their trust by paying the trust funds into Court.

**Trustee in bankruptcy,** or liquidation, under the Act of 1869, took the place of the assignee under the earlier Acts; in him the debtor’s property vests in trust for the creditors. At
the close of the bankruptcy he has to submit his accounts to the Board of Trade. See Bankruptcy Act, 1883, s. 82, Bankrupt.

**Tubman**, a barrister in the Court of Exchequer, who had privileges of seat and pre-audience next to the Postman (*q. r.*).

**Tumultuous petitioning**, is a form of rioting. By 13 Car. II., st. 1, c. 5, no petition to the Crown or Parliament for the alteration of matters established by law in Church or State may be signed by more than twenty names, unless the contents thereof have been previously approved by certain authorities therein mentioned: the penalty is a fine up to £100, and three months' imprisonment.

**Turpis causa**, a base, or immoral consideration, on which no action can be founded.

**Tutor** (Sc.), a guardian (*q. r.*), of an infant under the age of puberty. See Pupil. He may be a tutor-nominate (testamentary), a tutor-at-law or legitim (appointed by the Court on the application of the infant), or a tutor-datire (named by the Sovereign on failure of the two preceding). A tutor frequently has charge of both the person and property of the pupil: a curator only of the property.

**U.**

**U. B.** (Roman law), uti rogas (as you wish); the initials inscribed on the ballot used by the Romans.

**Umberrima fides** (*most entire confidence*). Contracts made between persons in a particular relationship of confidence, as guardian and ward, attorney and client, or insured and insurer, require the fullest information to be given beforehand by the person in whom the confidence is reposed to the person confiding, or the Court will refuse to enforce the contract on behalf of the former.

*Ubi aliquid conceditur, conceditur et id sine quo res ipsa esse non potest.*—(When anything is granted that also is granted without which it could not exist.) See *e.g.*, Way of necessity.

*Ubi cadem ratio, ibi cadem lex; et de similibus idem est judicium.*—(Where the same reason exists, there the same law prevails; and of things similar, the judgment is similar.)

*Ubi jus, ibi remedium.*—(Where there is a right there is a remedy.)

**Udal right** (Sc.), a right to land by undisturbed possession, not founded on charter or feoffment.
Ulster, see Kings at Arms.
Ultimus hæres, the ultimate heir, see Sovereign.
Ultrad (beyond). See Damages.
Ultrad vires (beyond their powers). A company or corporation is said to act ultra vires, when it exceeds the authority imparted to it by Act of Parliament, its articles of association, &c.
Ultronious witness (Sc.), one who gives voluntary evidence.
Umpire, one who decides a question in dispute, a referee; and especially, one who is chosen by arbitrators to determine finally a point on which they are unable to agree. A submission to arbitration (q. v.), usually provides for the choice of an umpire, if necessary. His award is sometimes called an umpirage.
Umquhile (Sc.), deceased.
Unborn, see In ventre.
Uncertainty. A gift by will is void for uncertainty if it is impossible to ascertain the testator's intention with regard to it. Uncertainty in pleading is not permitted lest it should mislead or embarrass the opposite party.
Uncore (or encore) priest (always ready). See Tnnt.
Unde nihil habet, Writ of Dower, the remedy of a widow to whom no dower had been assigned within the period limited by law. Abolished by C. L. P. Act, 1860.
Under-lease or Sub-lease, a grant by a lessee to another of a part of his whole interest under the original lease, reserving to himself a reversion. The lessee is then called an under (or sub) lessor, and his assign an under (or sub) lessee. An under-lease for the whole term, not reserving any part to the lessee, is an assignment (q. v.). A lessee continues liable to his lessor on the covenants contained in the lease whether he assigns or underleases; a sub-lessee is not liable to the original lessor; an assignee of a lease is. Mortgages of leasehold terms are therefore usually made by way of under-lease. See Lease.
Undertaking; a promise: especially one formally given in the course of a legal proceeding, which may be enforced by attachment or otherwise. An undertaking to appear is a promise by a solicitor to appear for his client in an action, so as to make personal service on the client unnecessary. See R. S. C., 1883, Ord. XII. r. 18.
Under-tenant, one who holds by under-lease (q. v.).
Under-writer, an insurer of ships, so called from his writing his name under the policy of insurance (q. v.).
Undue influence, any improper pressure by which the party pressed is induced to benefit the party pressing. Against such,
the Courts will relieve. (2) In election matters, any force, violence, or restraint, or the infliction, or threat to inflict, any temporal or spiritual injury, damage or loss upon or against any person in order to induce him to vote, or refrain from voting, or on account of his having done so, or the preventing an elector from voting, by means of fraud, abduction, or duress. See 46 & 47 Vict. c. 51, s. 2.

Uniformity, see Act of Uniformity.

Unilateral contract (Roman law). When the party to whom an engagement is made makes no express agreement on his part, the contract is called unilateral (one-sided), even in cases where the law attaches certain obligations to his acceptance of the engagement. A loan for use is of this kind.

Union, a combination of parishes for poor-law purposes. (2) A union workhouse. (3) A combination of benefices.

Unity of interest. Joint tenants are said to have unity of interest, as none of them has a greater interest in the subject of tenancy than the others have. See Joint tenancy.

Unity of possession, is where land subject to an easement, rent or charge comes into the hands of the person entitled to the easement, &c.; as if a person takes a lease of lands from another at a certain rent, and afterwards buys the fee-simple; by this unity of possession the lease is extinguished. (2) See Joint tenancy.

Unity of seisin, is where land subject to an easement comes into the hands of the owner of the land to which the benefit of the easement is attached.

Unity of time, is where an estate comes into the ownership of two or more persons at the same moment. See Joint-tenancy.

Unity of title, is where an estate comes to two or more persons by the same title. See Joint-tenancy.

Universal agent, one who is appointed to do all acts which his principal can do, and which he has the power to delegate. In practice this does not exist.

Unlawful assembly, a generic term comprehending riot, affray, &c. See those titles.

Uliquidated, not ascertained. See Damages.

Unsound mind, a generic term including lunacy and idiocy. A person of unsound mind not so found by inquisition is one who is a lunatic, but has not been subjected to a formal enquiry in lunacy for the purpose of declaring him to be such.

Unum est tacere, aliud celare.—(It is one thing to be silent, another to conceal), e.g., a vendor, in most cases, is not bound t-
disclose latent defects to an intending purchaser; but if he by fraudulent device conceal a defect which would otherwise be patent, the contract will be voidable by the purchaser.

Uno flatu (with one breath, i.e., at the same moment).

Unamquodque dissolvitur codem modo quo colligatum est.— (Every obligation must be dissolved with the same solemnity with which it was created), e.g., an obligation incurred under a deed can only be released by another deed.

Upper Bench, the style of the Queen's Bench during the Protectorate of Cromwell.

Upset price, that at which property sold by auction is put up.

Ure, custom. (2) Effect, operation.

Usage, practice long continued. It differs from custom (q. v.) in that it must always be proved.

Usance, the time at which a bill of exchange drawn in one country on another country is usually made payable.

Use. Before the Statute of Uses a use was in its nature equitable, being a right enforced by the Court of Chancery to the beneficial ownership of an estate, the possession of which was vested in confidence in another, called the fecoffee to uses, the beneficiary being the centui que use. The effect of this separation of the legal and beneficial ownership being to enable secret transfers of land to be made, and also the rights of the Crown and of the lord to forfeiture, escheat, and the like to be evaded, the Statute of Uses (27 Hen. VIII. c. 10) was passed, enacting (in effect) that where any person was seized to the use, confidence, or trust of another, the latter should take a legal estate co-extensive with the equitable one which he would have had prior to the statute. The statute does not apply to leaseholds or copyholds; nor does it execute (i.e., operate on) a second use, otherwise called a use upon a use, or upon a use or trust which has active duties attached to it, called an active use. Common law uses are those last mentioned, which were unaffected by the statute. A springing use is one which is to come into operation at a future date. A shifting use one which shifts from one person to another on the happening of a certain event, or nonperformance of a condition. The word "trust," is now used instead of "use," where the object is to confer a beneficial, as distinguished from a legal, estate. See Trust, Grant, Fecoffee. (2) Enjoyment, user. See next title.

Use and occupation. An action may be brought by the owner of real property against a person using or occupying it, on an implied agreement to pay for his use and occupation.
User, use, enjoyment.

Uses, Statute of, see Use.

Uses to bar dower, a form of conveying land to a man married before the Dower Act came into operation (Jan. 1, 1834), so as to prevent the wife’s right to dower attaching. The Act renders it unnecessary in the case of a man married since that date.

Usual covenants, by a lessee, are to pay rent and taxes, and to repair; by a lessor, a qualified covenant for quiet enjoyment.

Usucapio (Roman law), title by prescription (q. v.).

Usufruct (Roman law), the right to the beneficial ownership of a thing the proprietorship of which is in another.

Usufructuary, he who enjoys the usufruct.

Usurpation, a taking and holding of a thing without right.

(2) Presenting to an advowson without title.

Usury laws, were passed to prohibit taking usury or interest above a certain fixed rate. They were repealed by 17 & 18 Vict. c. 90; but the interest which pawnbrokers may take is still limited by law to 25 per cent. per annum on loans under 40£., and 20 per cent. per annum on loans exceeding that amount. See 35 & 36 Vict. c. 93, sched. IV.

Utas, the eight days following any term or feast.

Uterine brother, a brother born of the same mother; frater consanguineus is the son of the same father by a different mother.

Uti possidetis (as you possess), (Roman law) an interdict, or special edict, of the prætor declaring the ownership of real estate to be in the person then in possession.

Utile per inutile non vitiatur.—(The useful is not vitiated by the useless; e.g., clear words of grant are not affected by words which are obscure or superfluous.)

Utary, outlawry.

Utter, to represent, and attempt to pass off, a forged document or counterfeit coin as genuine.

Utter or Outer barristers, all such counsel as are not either Queen’s Counsel or Serjeants-at-law.

V.

Vacant, empty, not occupied. A vacant succession is an inheritance the heir to which is unknown.
Vacantia bona (Roman law), things without an owner; the goods of one dying without successors.

Vacate, to cancel, render of no effect.

Vacations, the intervals between the sittings of the offices of the Supreme Court. They are four; the Long vacation from August 10 to October 24; Christmas, from December 24 to January 6; Easter, from Good Friday to Easter Monday; and Whit-Sun, from the day before Whitsunday to the Monday following, all inclusive. See R. S. C., 1883, Ord. LXIII. rr. 3—5. Two vacation judges sit during the Long vacation for the despatch of pressing business: ib. rr. 11—15.

Vadium mortuum, a dead-pledge or mortgage.

Vagabond or Vagrant, a wanderer, an idle fellow. The vagrancy laws are directed against "rogues and vagabonds," "idle and disorderly persons," and "incorrigible rogues," i.e., in effect all those who, being able to maintain themselves by lawful labour, either refuse to work, or resort to unlawful practices, such as begging or fortune-telling, to get their living.

Valeat quantum, let it have its weight (small or great.).

Valuable, see Consideration.

Value, Purchaser (or Holder) for, one who gives valuable consideration (q. r.). Value received, a phrase generally inserted in bills of exchange, though unnecessarily so, as value is implied in every bill.

Valued. A valued policy is one in which the value of the thing insured is settled at the time of making the insurance, and is inserted in the policy, as distinguished from an open policy, in which the value is left to be afterwards ascertained.

Valuer, a person who appraises property.

Variance, a difference between the statements in the pleadings and the evidence adduced in proof thereof.

Vasto, a writ of waste (q. r.).

Vavasour, vidame, one who, holding of a superior lord, has others holding under him; a mesne lord.

Vendee, one to whom anything is sold.

Venditioni exponas, Writ of, is one directing a sheriff to sell goods which he has taken under a writ of fieri facias (q. r.).

Vendor, one who sells anything. A vendor's lien is the right which he has, while his purchase-money, or any part of it, is unpaid, to charge the land sold with payment thereof, even after he has conveyed or delivered possession of it to the purchaser; provided only that he has not waived his lien by accepting security for the purchase money or the like.
Venia statis, a privilege granted by a sovereign power, entitling a minor to act as if he were of full age.

Venire facias (make to come), a writ to the sherriff to summon a jury. Abolished by the C. L. P. Act, 1852.

Venire facias ad respondendum, a writ of summons to answer an indictment for misdemeanor.

Venire facias de novo, a second writ to summon another jury for a new trial. Obsolete. See New Trial.

Venire facias tot matronas, a writ to summon a jury of matrons to execute the writ de rentre inspiciendo. See Venter.

Venter or Ventre, the womb. A person in ventre is one conceived but not yet born. See Gestation. The writ de rentre inspiciendo was an original process issuing out of Chancery, on the petition of the person next entitled to land, to examine whether the woman from whom an heir might be born who would exclude the petitioner was really enceinte, and so to guard against supposittitious births. See Jury of Matrons.

Venue, the place whence a jury are to come for trial of causes. Venue in civil cases was (previous to the Judicature Act, by which local venue was abolished) local or transitory: the first, when the cause of action necessarily arose in a certain place; the second, when it might have arisen anywhere. See now R. S. C., 1883, Ord. XXXVI. r. 1. Venue in criminal cases, still exists, and is co-extensive with the jurisdiction of the Court.

Verba accipienda sunt secundum subjectam materiem.—(Words are to be understood with reference to the subject matter.)

Verba aliquid operari debent.—(Words ought to be interpreted in such a way as to have some operation.)

Verba chartarum fortius accipiuntur contra proferentem.—(The words of a grant are to be interpreted adversely to the grantor.) But see Donationes &c.

Verba cum effectu accipienda sunt.—(Words ought to be used so as to give them their effect.)

Verba generalia restringuntur ad habilitatem rei vel aptitudinem personae.—(General words must be narrowed to the nature of the subject or the capacity of the person, i.e., of the grantor.)

Verba illata, or relata, inesse videntur.—(Words referred to are considered to be incorporated.)

Verba intentioni debent inservire.—(Words ought to be made subservient to the intent.)

Verba ita sunt intelligenda, ut res magis valeat quam pereat.—(Words are to be so understood that the object may be carried out and not fail.) See Benigne &c.
Verbal, made by word of mouth, oral (q.v.).
Verdict, the determination of a jury declared to a judge, or, by analogy, the decision of a judge sitting without a jury as to a question of fact. It may be general or special, the latter giving the facts found, and leaving the conclusion of law to the Court; the former stating the conclusion arrived at by the jury, without more.
Verge, the compass of the Sovereign's Court, within which originally the coroner of the county had no jurisdiction. (2) A rod. Hence in some copyhold estates tenants by the verge, who were admitted by delivery of a rod.
Verification. Under the old system of pleading which was abolished by the C. L. P. Act, 1852, if any pleading after the declaration contained new matter, it was properly concluded by the words, "and this he is ready to verify," which were called the verification.
Veritas conviciei non excusat a calumnia. — (The greater the truth the greater the libel. q.v.).
Veritas demonstrationis tollit errores nominis. — (The truth of the demonstration removes the error of the name.) E.g., in a will, if the identity of a legatee is established, a mere error in his name is unimportant.
Versus, abbrev. v., (against).
Vert or Verd, the right (a) of cutting green wood; (b) of pasturage.
Very lord and very tenant, they that are immediate lord and tenant, the one to the other.
Vested. A right or estate is said to be vested in a person when he becomes entitled to it. It may be vested in possession, when he has a right of present enjoyment, or vested in interest, when he has a right already secured (and in that sense, present) of future enjoyment. See Remainder. (2) Established, which ought to be maintained.
Vesting order. In certain cases, as where a person who should convey is lunatic or cannot be found, a vesting order is made in the Chancery Division, or by the Lord Chancellor, or Lords Justices, which has the effect of transferring the property to the proper person. It is stamped as a conveyance.
Vestry, a room adjoining a church, in which the vestments are kept. (2) A parochial assembly once commonly convened therein. A select vestry is one chosen to represent the whole body of ratepayers, all of whom are otherwise entitled to attend.
Vesture, pasturage.
Vetra Statuta, the ancient statutes commencing with Magna Charta, and ending with those of Edward II.

Vetitum, or Repetitum namium, a second distress, in lieu of the first, which has been eligned or carried off.

Vexata quaestio, an undetermined point, which has been often discussed.

Vexatious (e.g., action), brought without probable cause, for the purpose of annoyance or oppression.

Vi et armis (by force of arms), words inserted (previous to the C. L. P. Act, 1852) in pleadings to characterise a trespass.

Vi laicâ removenda, Writ de, an obsolete writ by an incumbent who was forcibly disturbed in the possession of his church, to have the lay force removed therefrom.

Via (Roman law), a right of way (q. v.).

Viability, a capability of living after birth; extra-uterine life. Vita trita est tutissima.—(The trodden path is the safest.)

Vicarius non habet vicarium.—(A substitute cannot have a substitute.) See Delegatus &c.

Vicar, a substitute. (2) The incumbent of an impropriated benefice, who gets only the small or vicarial tithes. See Rector.

Vicar-general, an ecclesiastical officer appointed by an archbishop or bishop to assist him in matters spiritual.

Vice, Succeeding in the (Sc.), entry into possession in the room of a tenant who is bound to remove, by collusion with him as against his landlord.

Vice-Admiralty Courts, are those having Admiralty Jurisdiction in her Majesty's possessions beyond the seas.

Vice-Chancellor. A judge of the Court of Chancery, originally appointed to relieve the Lord Chancellor of part of his judicial duties. The first was created in 1813. By the Judicature Act, 1873, it was provided that no more Vice-Chancellors shall be created with that title, and those created in future will be styled "Justices."

Vicinage, neighbourhood, proximity. See Common.

Vicious intromission (Sc.), a meddling with the moveables of a deceased, without probate of his will, or other title.

Vicountiel, that which belongs to the sheriffs or vice-comes.

Vidame. See Vicarnour.

Vide (see), a word of reference. Vide ante or supra refers to a previous passage; vide post or infra to a subsequent one.

Videlicit (to wit), a word formerly used in pleading to precede the specification of particulars which need not be proved.

Viduity, widowhood.

View, an inspection of property in controversy, or of a pla-
where a crime has been committed, by certain of the jury called
the viewers. The old writ of view was abolished by the C. L. P.
Act, 1852. By R. S. C., 1883, Ord. L. r. 3, a judge may make an
order for the inspection of any property or thing, being the
subject of any cause or matter before him, or as to which any
question may arise therein: or he may inspect it himself (r. 4).
(2) See Frank-pledge.
Vigilantibus non dormientibus jura subvenunt.—(Laws come
to the assistance of the vigilant, not of the sleepy.) See Laches.
Viis et modis, Service, of a citation, &c., in the Eccle-
siastical Courts, is service by such means as will bring it to the
notice of the person, i.e., substituted as opposed to personal
service (q. r.).
Vill, a manor, village, or town.
Villain or villein, a man of base or servile condition, though
not actually a slave. Villesins regardant were those annexed to,
and passing with a manor, as opposed to villeins in gross, who
were annexed to the person of the lord. See Service, Socage.
Villenage, base tenure (q. r.). See Villain.
Vindicatio (Roman law), an action for land.
Vindicative damages, those given by way of punishing the
offender, over and above the actual loss suffered.
Viol, Violation, rape.
Violent profits (Sc.), those due from a tenant who forcibly
retains possession after he should have given it up.
Vis major, irresistible force, inevitable accident.
Visitor, one who periodically inspects the management of a
college foundation, or charitable institution. He is in some cases
the founder himself or his heirs; in others he is appointed by
the Crown, Lord Chancellor, &c.
Visne, a jury, taken originally from the vicinity.
Vitiation (Sc.), material alteration in an instrument.
Viva voce (by word of mouth). See Evidence.
Vivary, a park, warren, fishery.
Vivisection, the dissecting of living animals for scientific
purposes. It may only be practised by persons holding a license
under 39 & 40 Vict. c. 77.
Vocatio in jus (Roman law), a citation to trial.
Void and voidable. There is this difference between these
two words: void means that an instrument or transaction is
absolutely null and ineffectual so that nothing can cure it; void-
able, that the imperfection or defect can be cured by the act or
confirmation of him who could if he pleased take advantage of
it. Thus, while acceptance of rent will make good a voidable lease, it will not affirm a void lease. (2) A void is a house lying empty or unlet.

Voidance, the act of ejecting from a benefice.

Voir dire (erritatem diceré), a preliminary examination of a witness as to his competency to speak the truth. Witnesses are not incapacitated by interest or infamy. See Initialia.

Volenti non fit injuria.—(No injury is done, in the eye of the law, where the person injured consents.) See, e.g., Seduction.

Voluntary, acting without compulsion; done by design. (2)

When applied to a gift, promise, or conveyance, it means that it is made either without, or only for a good, consideration (q. v.).

Voluntary waste, that which is the result of the deliberate act of the tenant of property, as where he pulls down a wall, or cuts timber; opposed to permissive waste (q. v.).

Voluntas in delictis, non exitus spectatur.—(In crimes the intention, and not the consequence, is looked to.)

Voluntas reputatur pro facto.—(The intention is to be taken for the deed.)

Voluntas testatoris est ambulatoria usque ad extremum vitae exitum.—(The will of a testator is revocable until the latest moment of life.)

Volunteer, one to whom a gift, promise, or conveyance is made without valuable consideration being given therefor, either by him, or by some one on his behalf. (2) One who gives his services without any promise of remuneration in return.

Vox emissa volat; litera scripta manet.—(The spoken word flies away; the written one remains.)

Vouch, to call to warranty. In the old practice of recoveries (q. v.), the person against whom the action for the land was brought, vouched him who had warranted the title, i.e., called on him to defend it. The former was called the voucher, the latter the vouchee. In the fictitious proceeding called common recovery, the crier of the court was the person ultimately vouched, and was called the common vouchee. See Imparl. (2) To rely on, to quote.

Voucher, a document which evidences a transaction; a receipt. (2) See Vouch.
W.

W. S., Writer (q. v.) to the Signet.

Wadset (Sc.), a kind of mortgage. The lender is called the 

wadsetter, and the borrower the 

receiver.

Wager, a mutual promise by two persons to each other that 

the one shall in a certain event pay the other a certain sum of 

money. A wager is not illegal unless it be against public policy; 

but under 8 & 9 Vict. c. 109, it is irrecoverable by any legal pro- 

ceeding. (2) See Peigned issue. (3) Wager of law, see Con- 

purgregator. (4) Wager of battel, see Battel.

Wagering policies, for gambling purposes, were made void 

by 14 Geo. III. c. 48.

Wages, the sum paid by a master to a servant by way of 

compensation for work done. They are favourably treated by 

the law, being exempt from attachment under 33 & 34 Vict. c. 30, 

and payable in preference to other debts under the laws of 

bankruptcy, and of the winding up of companies. See Truck, 

46 & 47 Vict. c. 31.

Waif, goods found, but claimed by nobody (bona vacantia). 

(2) Goods stolen, but waived (wariata), or thrown away by the 

thief in his flight; they belong by law to the Crown.

Waive, to forego, to decline to take advantage of, e.g., a legal 

right, or an omission or irregularity of another person. By 

waiver a legal right is lost. But mere lying by is not waiver; 

there must be a positive act. (2) See Waif. (3) To make a woman 

an outlaw.

Wales, Prince of, the eldest son of the reigning sovereign, 

his wife being called the Princess of Wales. (2) Court of 

Great Session of Wales, abolished by 1 Wm. IV. c. 70, circuits 

being held in Wales as in the English counties.

Wapentake, a hundred.

Ward, an infant who is under guardianship (q. v.). A ward 

of court is an infant under the protection of the Court of 

Chancery. An infant becomes a ward of court ipso facto, if an 

action be instituted in the Chancery Division concerning his 

property or custody. (2) See Watch. (3) A division of a 

borough or parish for the purpose of electing representatives.

Warden, a guardian or keeper. (2) See Cinque.

Wardsip, the condition of a ward.

Waring, Rule in Ex parte, is that securities held by a 

banker against his acceptances are available to the billholders, 

if both acceptor and drawer become insolvent.
Warning of a caveat, a notice to a person who has entered
a caveat in the Probate branch of the High Court to appear and
set forth his interest.

Warrantice (Sc.), warranty.

Warrant, an authority. (2) A precept under hand and seal
to some officer to arrest an offender, to be dealt with according
to due course of law. (3) A writ of summons. (4) See Dock.
(5) See Shреr.

Warrant of Attorney, a written authority addressed to a
solicitor of the court in which it is intended that a judgment
shall be entered up, authorizing him to appear on behalf of the
person giving the authority in an action and to suffer judg-
ment to pass by default. The instrument is usually given to
secure payment of a debt, and is defeasible on payment of a
certain day. The defeasance must be on the same paper as the
warrant. The effect of the warrant must be explained by a
solicitor to the person giving it before he executes it; otherwise
it is invalid. See Non sum &c.

Warrantia charte, a real action in cases where a person
was enfeoffed with warrant, and was not able to vouch the
warrantor. Abolished in 1833.

Warranty, a guarantee concerning goods or land, given
usually to a purchaser by the vendor. Warranty of goods is as
a rule an undertaking that they are of a certain quality.
Warranty of land, i.e., of good title, has been abolished by 3 &
4 Wm. IV. c. 27. Warranty may be expressed or implied, the
latter being a limitation of, the maxim caveat emptor in certain
cases, as where goods are ordered to be made for a particular
purpose.

Warren, a place privileged by prescription or by grant from
the Crown for the keeping of beasts or fowls of warren. See Game.

Waste, any spoil or destruction in houses, gardens, trees, &c.,
to the prejudice of the inheritance. It is either (i.) legal, sub-
divided into voluntary and permissive (see those titles), or (ii.)
equitable, the latter comprising acts which were not considered
waste at common law, but which the Courts of Equity re-
strained; e.g., the cutting down of ornamental timber. A
tenant for life is sometimes made unimpeachable (i.e., irrespon-
sible) for waste by the instrument creating his estate: he can
still, however, be restrained from committing equitable waste.
(2) Uncultivated or common ground. See Manor.

Watch, was the name for a body of constables on duty by
night; ward, being chiefly applied to day duty. Watch Com-
mittee is one chosen from the town council of a municipa'
borough to control the constabulary force, and make the
watch-ratr.

Water. In law, a grant of water passes merely a right of
fishing, as a pond, &c., is properly described as “land covered by
water.” See Navigable, Fishery, Aqua.

Water-bailiff, an officer in seaport towns, whose duty it is
to search ships. (2) One appointed under the Salmon Fishery
Acts to protect rivers, &c., from poachers.

Water-gavel, a rent paid for fishing in, or other benefit
received from, some river or other water.

Watercourse, a stream, artificial or natural. (2) A right to
the flow of water over one’s own land, or to discharge water on
to one’s neighbour’s land. It may be prescribed for. See Pres-
scription.

Waveson, flotsam (q. v.).

Way, a passage. (2) A right of passage. It may be (i.) a foot-
way (iter); (ii.) a horse and footway (actus); or (iii.) a cart-
way (riu or aditus). Ways are either public or private: those
which are public being usually called the (Queen’s) highway.
(Via regia.) A private right of way may be founded on grant,
licence, or prescription, being either an easement or customary
right. A way of necessity is one which arises by operation of law,
where a person grants to another a piece of land which can only
be reached by crossing land of the grantor’s; for a right to cross
such land is impliedly given to the grantee, though only for so
long as an absolute necessity exists therefor. See Cumquinque &c.

Way-bill, a document containing the names of passengers,
or the description of goods, carried in a public conveyance.

Way-going crops, see Away-going.

Way-leave, a right of way (q. v.) to carry minerals; usually
for a rent, which may be either fixed or varying with the amount
carried.

Way-wardens, persons elected from each parish forming
part of a highway district, to sit on the highway board.

Ways and Means, The Committee of, of the House of
Commons, determines, the manner of raising the funds of which
the Committee of Supply regulates the expenditure.

Weights and Measures, The adjustment of, is the preroga-
tive of the Crown. See 41 & 42 Vict. c. 49.

Welsh mortgage, a conveyance of an estate redeemable at
any time by the mortgagor, on payment of the loan; the rents
and profits being in the meantime received by the mortgagee in
satisfaction of interest, subject to an account. The mortgagee
cannot foreclose.
Were or Wergild, compensation for homicide or grave injury.

Westminster the First, Statute of, 3 Edw. I., A.D. 1275.

Where the equities are equal, the law must prevail. Cf. Qui prior est tempore &c.

Whereas, a word which introduces a recital of a fact.

Widow-bench, or Free-bench, that share of her husband's estate which a widow is allowed by certain customs besides, or in lieu of, her dower.

Wife, see Husband, Married, Equity to a Settlement.

Wild animals, see Animals.

Wild's Case, Rule in. A devise to B. and his children or issue, B. having no issue at the time of the devise, gives him an estate-tail; but if he have issue at the time, B. and his children take as joint tenants, or as tenants in common, according to the other words of the will.

Wilful, intentional, deliberate. Mortgagees and others in possession of securities, land, &c., are liable for losses caused by their wilful default.

Will, "the legal declaration of a man's intentions, which he wills to be performed after his death." It is revocable during the testator's lifetime. It must as a rule be in writing (see Execution, Nuncupative), but not in any particular form. Infants and lunatics have no testamentary capacity: married women only of their separate estate, or by consent of their husbands. See Intestate, Probate, Appointment.

Will, Estate at, see Tenant-at-will.

Will, of a summons, that part which declares the royal will or command.

Wind bills (So.), accommodation bills.

Winding-up, the process of calling in and distributing the assets of a company which is bankrupt, or unable or unwilling to carry on its business any longer. By the Companies Acts a winding-up may be compulsory, voluntary, or under supervision. It is the only legal way of terminating the existence of a company. (2) The word is also applied in a similar way to partnerships, and sometimes to what is more properly called the administration (q. v.) of a deceased person's estate.

Window, see Light.

Wit, To (to know), that is to say, namely.
Withdrawal. As to withdrawal of part of a plaintiff's cause of complaint see R. S. C., 1883, Ord. XXVI.

Withdrawal, of juror, when a jury cannot agree upon a verdict, or the parties desire, or the Court advises, that the trial should proceed no further, a juror is often withdrawn by consent of the litigants, so as to put an end to the proceedings.

Withoutam, see Capias.

Without day, To go. A defendant was formerly said to go without day when he was successful, the action not being adjourned to any future date.

Without prejudice, see Prejudice.

Without recourse to me (sans recours), a phrase used by an agent who endorses a bill or note for his principal, the use of which protects him from liability. See Indorsement.

Without reserve, see Puffer.

Witness, one who is able to testify. (2) One who gives evidence in a cause. A witness must attend in court according to the requirement of his subpoena. If he has not been paid his lawful expenses, he may refuse to be sworn; but if he be once sworn, he must give his evidence. See Privilege, Attest, Oath, Perjury.

Witnessing part, the testatum (q. r.).

Woolsack, the seat of the Lord Chancellor in the House of Lords.

Words, see Art, Defamation, Limitation.

Workhouse, a building for the reception and accommodation of paupers. See Union.

Workmen, see Master and Servant.

Wounding, see Mayhem, Battery.

Wreck, any portion of a wrecked or lost ship or her cargo, which is recovered, either on shore or at sea; thus including flotsam, jetsam, and ligan (see those titles). Wreck originally belonged to the Crown, and has in many cases been the subject of grant to individuals. The Receivers of Wreck are officials whose duty it is to preserve wreck for its owners, who may claim it within a year; if unclaimed it is sold, and the proceeds paid into the Exchequer. The Wreck Commissioners are officials appointed under the Merchant Shipping Act to enquire, at the instance of the Board of Trade, into any accident to a ship whereby loss of life is caused.

Writ, a judicial process, by which a person is summoned to appear. (2) A legal instrument to enforce obedience to the orders and sentences of the courts. Writs are drawn in the Queen's name, and also bear the seal of the Crown or of a court. They
are either (a) prerogative, or (b) of right; (a) when the granting of them is in the discretion of the Court, as in the case of habeas corpus: (b) when the applicant is entitled as of course. The latter class includes original writes, by which an action used formerly to be commenced (see now Writ of Summons), and judicial writes, under which head almost all writes at present existing fall, such as writs of summons, writs in aid (q. v.), and writs of execution. For the different writes, see the several titles and those following. (3) An action. By 3 & 4 Wm. IV., c. 27, a number of writs were abolished; e.g., the writs of waste and of partition.

Writ in aid, is one issued after a writ of execution has failed. See e.g., Assistance, Venditioni.

Writ of Dower, a writ of which there were two forms, the writ of right, and the writ unde nil habet (q. v.). Though preserved by 3 & 4 Wm. IV. c. 27, they were abolished by the C. L. P. Act, 1860. See Dower.

Writ of Entry, was a real action by a person disseised, to recover possession. It was said to be in the per where the disseisor's heir or assign was in possession; in the per and cui where two descents or alienations had taken place; in the post where there had been more than two.

Writ of Error, is an original writ issuing out of the Petty Bag Office (q. v.), and directing an inferior Court to send the record of proceedings before it to a superior Court for review. See Error, False judgment.

Writ of Protection, a prerogative writ protecting a person from arrest in civil proceedings for a year and a day.

Writ of Right, see Writ, Writ of Dower.

Writ of Summons, is a judicial writ issuing out of the Central office of the Supreme Court at the instance of the plaintiff in an action. It is the formal method of commencing an action, and is served on the defendant to inform him thereof. It consists of (a) the body, containing the title, mandatory part, and teste; (b) the memoranda, specifying the time within which the writ must be served, and the place where the defendant is to enter an appearance; and (c) the indorsements (as to which see Indorsement of Address and following titles). In Admiralty actions it is addressed to the owners, and authorises the arrest of the ship. A writ remains in force for twelve months, and if not served within that time may be renewed for six months longer. See Concurrent.

Writers to the Signet, abbrev. W. S., also called clerks to the signet. A legal body who perform, in the supreme courts of Scotland, duties analogous to those of a solicitor.
Wrong, the infringement of a right.
Wrongeous imprisonment (Sc.), false imprisonment.

Y.

Year, The, is either astronomical, lasting for twelve calendar months from the 1st of January, ecclesiastical, beginning on Advent Sunday, or regnal, beginning on the day of the Sovereign's accession. See Term, New Style, Time.

Year and day, see Entray, Wreck, Murder.

Year, day, and waste, see An.

Year-books, or Books of years and terms, are annual reports, in a regular series of cases, from the time of King Edward II. to Henry VIII., taken by the prothonotaries or chief scribes of the courts, at the expense of the Crown.

Year to year, Tenancy from, arises either expressly, as when land is let from year to year, or by a general parol demise, without any determinate interest, but reserving the payment of an annual rent; or impliedly, as when property is occupied under a rent payable yearly, half-yearly, or quarterly; or when an occupier, under an agreement for lease at a certain rent, pays rent; or when a tenant holds over, after the expiration of his term, without having entered into any new contract, and pays rent (before which he is tenant on sufferance). See Tenant from year to year.

Yeoman, formerly meant a 40s. freeholder not advanced to the legal rank of a gentleman; one who farms his own freehold.

Yielding and Paying, the first words of the reddeendum clause in a lease.

Yorkshire, see Register Counties.

Yule, the times of Christmas and Lammas.
### LAW REPORTS OF THE UNITED KINGDOM
### WITH THEIR ABBREVIATIONS.

<table>
<thead>
<tr>
<th>ABBREVIATION</th>
<th>REPORTER, OR TITLE OF REPORTS</th>
<th>PERIOD</th>
<th>COURT</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. &amp; E.</td>
<td>Adolphus and Ellis</td>
<td>1834—1852</td>
<td>Q. B.</td>
</tr>
<tr>
<td>Acton</td>
<td>Acton's Reports</td>
<td>1809—1811</td>
<td>Priv. Co.</td>
</tr>
<tr>
<td>Add.</td>
<td>Addams</td>
<td>1822—1826</td>
<td>Eccles.</td>
</tr>
<tr>
<td>Alc. &amp; N.</td>
<td>Alcock and Napier</td>
<td>1831—1833</td>
<td>Ir. Com. L.</td>
</tr>
<tr>
<td>All.</td>
<td>Alleyne</td>
<td>1846—1849</td>
<td>Q. B.</td>
</tr>
<tr>
<td>Amb.</td>
<td>Ambler</td>
<td>1787—1788</td>
<td>Ch.</td>
</tr>
<tr>
<td>And.</td>
<td>Anderson (Sir E.)</td>
<td>1558—1603</td>
<td>C. P.</td>
</tr>
<tr>
<td>Andr.</td>
<td>Andrews (Vernon)</td>
<td>1791—1796</td>
<td>Exch.</td>
</tr>
<tr>
<td>Anon.</td>
<td>Anonymous</td>
<td>1741—1774</td>
<td>Election.</td>
</tr>
<tr>
<td>Anst.</td>
<td>Anstruther</td>
<td>1788—1790</td>
<td>Q. B.</td>
</tr>
<tr>
<td></td>
<td>and Ogle</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arnt.</td>
<td>Arnold</td>
<td>1888—1889</td>
<td>C. P.</td>
</tr>
<tr>
<td>Ass.</td>
<td>Liber Assisarum</td>
<td>1327—1377</td>
<td>Q. B.</td>
</tr>
<tr>
<td>Ass. Tax.</td>
<td>Assessed Taxes (Decisions)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atk.</td>
<td>Atkyns (t. Hardwicke)</td>
<td>1736—1754</td>
<td>Ch.</td>
</tr>
<tr>
<td>B.</td>
<td>See Beav.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. &amp; A.</td>
<td>Barnewall and Alderson</td>
<td>1818—1822</td>
<td>Q. B.</td>
</tr>
<tr>
<td>B. &amp; Ad.</td>
<td>Barnewall and Adolphus</td>
<td>1830—1834</td>
<td>Q. B.</td>
</tr>
<tr>
<td>B. &amp; B.</td>
<td>See Brod.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. &amp; C.</td>
<td>Barnewall and Cresswell</td>
<td>1823—1830</td>
<td>Q. B.</td>
</tr>
<tr>
<td>B. &amp; P.</td>
<td>See Bos.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. &amp; S.</td>
<td>Best and Smith</td>
<td>1861—1871</td>
<td>Q. B.</td>
</tr>
<tr>
<td>Ball &amp; B.</td>
<td>Ball and Beatty</td>
<td>1807—1814</td>
<td>Ir. Ch.</td>
</tr>
<tr>
<td>Bar. &amp; A.</td>
<td>Barron and Austen</td>
<td>1842</td>
<td>Election Ca.</td>
</tr>
<tr>
<td>Barnard.</td>
<td>Barnardiston (T.)</td>
<td>1740—1741</td>
<td>Ch.</td>
</tr>
<tr>
<td>Barnard., Q. B.</td>
<td>Barnardiston (R.)</td>
<td>1724—1734</td>
<td>Q. B.</td>
</tr>
<tr>
<td>Barnes</td>
<td>Barnes, Notes of Cases</td>
<td>1733—1756</td>
<td>C. P.</td>
</tr>
<tr>
<td>Beav.</td>
<td>Beavan</td>
<td>1840—1866</td>
<td>Rolls Ct.</td>
</tr>
<tr>
<td>Bell</td>
<td>Bell</td>
<td>1858—1860</td>
<td>Cr. Ca. Res.</td>
</tr>
<tr>
<td>ABBREVIATION</td>
<td>REPORTER, OR TITLE OF REPORTS</td>
<td>PERIOD</td>
<td>COURT.</td>
</tr>
<tr>
<td>--------------------</td>
<td>-------------------------------------------</td>
<td>--------------</td>
<td>--------</td>
</tr>
<tr>
<td>Bell's App. Ca.</td>
<td>Bell's Appeal Cases (Sc.)</td>
<td>1841—1850</td>
<td>H. L.</td>
</tr>
</tbody>
</table>
| Belt's Sup.        | {Belt's Supplement to
<p>|                   | Vesey, Sen.                               |             | Ch.    |
| Ben. &amp; D.          | Benloe and Dalison                         | 1512—1579    | C. P.  |
| Bing.              | Bingham                                   | 1822—1834    | C. P.  |
| Bing. N. C.        | Bingham, New Cases                         | 1834—1846    | C. P.  |
| Bl., W.            | Blackstone, William                        | 1746—1779    | Q. B.  |
| Bl., H.            | Blackstone, H.                             | 1788—1796    | C. P.  |
| Bligh              | Bligh (temp. Eldon)                        | 1819—1821    | H. L.  |
| Bligh, N. S.       | Bligh, New Series                          | 1827—1837    | H. L.  |
| Bos. &amp; Pul.         | Bosanquet and Puller                        | 1796—1804    | C. P.  |
| B. R.              | Buncum Regis                               |             | Q. B.  |
| Bridg., C. P.      | Bridgman, Sir O.                           | 1660—1667    | C. P.  |
| Bridg., Q. B.      | Bridgman, Sir J.                           | 1615—1623    | Q. B.  |
| Bro., P. C.        | Brown                                      | 1702—1800    | H. L.  |
| Bro., C. C.        | Brown                                      | 1778—1794    | Ch.    |
| Brod. &amp; Bing.      | Broderip and Bingham                       | 1818—1822    | C. P.  |
| Brooke, N. C.      | Brooke's New Cases                         | 1509—1547    | Ch.    |
| Brown. &amp; Gold.     | Brownlow &amp; Goldesborough                   | 1558—1825    | C. P.  |
| Buck               | Buck                                       | 1816—1820    | Bty.   |
| Bulst.             | Bulstrode                                  | 1603—1649    | Q. B.  |
| Bunb.              | Bunbury                                    | 1714—1760    | Exch.  |
| Burr.              | Burrow                                     | 1756—1772    | Q. B.  |
| Burr., S. C.       | Burrow's Settlement Cases                  | 1732—1776    | Q. B.  |
| C. &amp; J.            | Crompton and Jervis                        | 1830—1832    | Exch.  |
| C. &amp; M.            | Carrington and Maraham                     | 1842         | Nisi Pri. |
| C. &amp; Mee.          | Crompton and Meeon                         | 1832—1834    | Exch.  |
| C. &amp; P.            | Carrington and Payne                        | 1823—1841    | Nisi Pri. |
| Ca. t. Talb.       | Cases (temp. Talbot)                       | 1733—1737    | Ch.    |
| Ca. Q. B., t. Holt | Cases (temp. Holt)                         | 1703—1735    | Q. B.  |
| Cald., S. C.       | Caldwell, Settlement Cases                 | 1776—1785    | Q. B.  |
| Camp.              | Campbell                                   | 1807—1816    | Nisi Pri. |
| Cart.              | Carter                                     | 1664—1688    | C. P.  |
| Carth.             | Carthew                                   | 1638—1699    | Q. B.  |</p>
<table>
<thead>
<tr>
<th>ABBREVIATION</th>
<th>REPORTER, OR TITLE OF REPORTS</th>
<th>PERIOD</th>
<th>COURT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cary</td>
<td>Cary</td>
<td>1558—1603</td>
<td>Ch.</td>
</tr>
<tr>
<td>C. B. or M. G. &amp; S.</td>
<td>Common Bench Rep.</td>
<td>1845—1865</td>
<td>C. P.</td>
</tr>
<tr>
<td>Ch. Ca.</td>
<td>Cases in Ch.</td>
<td>1660—1688</td>
<td>Ch.</td>
</tr>
<tr>
<td>Ch. Sp. Ca.</td>
<td>Special Cases in Ch.</td>
<td>1669—1693</td>
<td>Ch.</td>
</tr>
<tr>
<td>Chitt.</td>
<td>Chitty</td>
<td>1819—1820</td>
<td>Q. B.</td>
</tr>
<tr>
<td>Cl. &amp; Fin.</td>
<td>Clark and Finnelly</td>
<td>1831—1846</td>
<td>H. L.</td>
</tr>
<tr>
<td>Clay.</td>
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<td>1841—1843</td>
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<td>1706—1740</td>
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<td>1844—1848</td>
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<td>1851–1857</td>
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<td>1827–1832</td>
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<td>1841–1843</td>
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<td>1785–1800</td>
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<td>1851–1858</td>
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<td>1858–1859</td>
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<td>Q. B.</td>
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<td>Eagle and Younge</td>
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<td>1801—1814</td>
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<td>1757—1766</td>
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<td>1858—1867</td>
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<td>1837—1838</td>
<td>Election.</td>
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<td>1673—1880</td>
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<td>1841—1843</td>
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<td>1862—1865</td>
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<td>1828—1831</td>
<td>C. P.</td>
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<td>1832—1834</td>
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<td>1613—1644</td>
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<td>1835—1837</td>
<td>C. P.</td>
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<td>1688—1710</td>
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<td>1821—1822</td>
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<td>1819—1821</td>
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<td>1841—1842</td>
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<td>Abbreviation</td>
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<td>Period</td>
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<td>1620–1651</td>
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<td>1854–1862</td>
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<td>Q. B.</td>
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<td>Kelynge (Sir John)</td>
<td>1673–1706</td>
<td>Q. B., &amp;c.</td>
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<td>1730–1734</td>
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