

BALLENTINE'S LAW DICTIONARY

A LAW DICTIONARY WITHOUT PRONUNCIATIONS

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THIRD EDITION

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A

A. The first letter of the English alphabet, deriving from the Greek "alpha." The indefinite article. One or any one, depending upon the entire context in which it appears. *State v Martin*, 60 Ark 343, 30 SW 421 (holding that a constitutional provision of a constitution for "a judge" for each circuit is not a limitation upon the power of the legislature to provide for an additional judge;) *First Trust Joint Stock Land Bank v Armstrong*, 222 Iowa 425, 269 NW 502; *Snowden v Guion*, 101 NY 458, 5 NE 322 (holding that a policy insuring against loss by "a sea" covers damage to ship or cargo caused by a succession of heavy waves.)

An abbreviation, although not recommended, of acre. An algebraic symbol of a known quantity. Symbolizing, when encircled, computation at a designated rate, for example, "interest @ 6%." An abbreviation of the Welsh **ap**.

Latin: Used interchangeably with "ab" and abs," as the context requires, for prepositions: -from; after; in; on; of; out of; because of; with.

French: Often appearing in the form "a" in expressions having legal significance as a preposition: -to; from; at; on; in; for; with.

See **an**.

AAA. Abbreviation of Agricultural Adjustment Administration. Also abbreviation of American Automobile Association.

a aver et tener. To have and to hold.

Ab. The eleventh month of the year according to the Jewish lunisolar calendar.

a.b. An abbreviation of able-bodied, where used in ship's papers after the name of a sailor.

A. B. An abbreviation of Bachelor of Arts.

ABA. Abbreviation of American Bar Association.

See **bar association**.

abacinate. Same as **abbacinate**.

abaction. An abactor's theft.

ab actis. A clerk or recorder.

abactor. A cattle thief who takes in numbers.

ab aeterno. From eternity.

ab agendo. Incapacitated.

abalienare. (Civil law.) To transfer an interest or right in, or a title to, real or personal property.

abandon. To withdraw entirely from a person or a thing, putting aside all care for him or it.

To abandon a person is to withdraw from one entitled to support. A child is abandoned by his parent; a wife by her husband. *Pidge v. Pidge*, 44 Mass (3 Met) 257, 265. A patient may be the subject of abandonment by a physician. 41 Am J1st Phys & S § 102.

abandoned property. Property to which an owner has voluntarily relinquished all right, title, claim and possession with the intention of terminating his ownership, but without vesting it in any other person and with the intention of not reclaiming future possession or resuming ownership, possession, or enjoyment. 1 Am J2d Aband § 1.

abandonce. A person to whom property or rights are abandoned or relinquished.

abandonment for torts or wrongs. (Civil law.) The relinquishment of an animal or a slave in settlement of liability.

abandonment of attachment lien. Affirmative act or conduct of the creditor inconsistent with the continuance of the lien. 6 Am J2d Attach § 412.

abandonment of child. An actual desertion accompanied by an intention, express or implied, to sever the relation entirely and throw off the obligations growing out of the relation. 39 Am J1st P & C §§ 2, 104.

abandonment of copyright. Publication without obtaining a copyright. 18 Am J2d Copyr § 84.

abandonment of homestead. An actual relinquishment of possession of the premises and removal therefrom, coupled with an intention to abandon the use of the property as a homestead, or an intention to remain away after such removal. See 26 Am J1st Home § 193.

abandonment of invention. Voluntary declaration of a purpose to abandon or conduct inconsistent with the right to obtain patent protection. *Electric Storage Battery Co. v Shimadzu*, 307 US 5, 83 L Ed 1071, 59 S Ct 675.

If an inventor, after perfecting his invention and applying for a patent, and thereby irretrievably committing himself to the proposition that his invention is ripe for introduction to the public, accept the decision rejecting his application, and cast aside his invention as no longer of any value to him, he thereby makes it forever public property and forever abandons it. See *Consolidated Fruit Jar Co. v Bellaire Stamping Co.* (CC Ohio) 27 F 337, 381.

abandonment of patent. A defense sometimes asserted in infringement cases. 40 Am J1st P § 184.
See abandonment of invention.

abandonment of property. Intentional and absolute relinquishment of property without reference to any

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particular person or for any particular purpose. 1 Am J2d Aband § 1; 3 Am J2d Adv P § 77.

Abandoned property is that to which the owner has voluntarily relinquished all right, title, claim, and possession with the intention of terminating his ownership, but without vesting it in any other person, and with no intention of reclaiming possession or resuming ownership and enjoyment in the future. 1 Am J2d Aband § 1.

Abandonment is the relinquishment of a right or property with the intention of not reclaiming it or reassuming its ownership or enjoyment. *Ellis v Brown* (CA6 Ky) 177 F2d 677, 13 ALR2d 945.

In marine insurance, the act of the insured in notifying the insurer that owing to damage done to the subject of the insurance, he elects to take the amount of the insurance in the place of the subject thereof, the remnant of which he cedes to the insurer. 29A Am J Rev ed Ins § 1572.

(Mining Law). "The term 'forfeiture' is often employed by miners as synonymous with abandonment." See *Wiseman v McNulty*, 25 Cal 230.

See **derelict; dereliction; presumed dereliction; renunciation; res derelicta**.

abandonment of spouse. The unjustified separation of one spouse from the other with the deliberate intention of the offender to terminate the matrimonial relation. *Bennett v Bennett*, 197 Md 408, 79 A2d 513, 29 ALR2d 467.

As the word is used in the state of Kentucky in a statute relative to divorce, it has been construed to include the refusal by the offending spouse to recognize and contribute to the marital relation for a period of one year, although the spouses sleep beneath the same roof. See *McQuinn v McQuinn*, 110 Ky 321, 328, 61 SW 360.

See **desertion**.

abandonment of trademark or tradename. Something more than temporary disuse; something showing not only a practical abandonment but an actual intent to abandon. 52 Am J1st Tradem § 30.

abandonment of use. A voluntary, affirmative, completed act whereby the right to resume a noncom-forming use under the zoning law is lost to the owner. 58 Am J1st Zon § 153.

abandonment to insurer. The act of the insured in notifying the insurer that owing to damage done to the subject of the insurance he elects to take the amount of the insurance in the place of the subject thereof, the remnant of which he cedes to the insurer. 29A Am J Rev ed Ins § 1572.

See **fifty percent rule, i**.

abandum. A chattel confiscated or forfeited.

abannition. The punishment of banishment.

ab ante. In advance. Beforehand.

ab antecedente. In advance; beforehand.

ab antiquo. From antiquity; anciently.

See **3 Bl Comm 96**.

Abarnare. To expose a concealed crime.

ab assuetis non fit injuria. The violation of a legal right is not affected by acquiescence.

abatable. Capable of abatement.

abatable nuisance. A nuisance that is not permanent, because it can be eliminated. *Bischof v Merchants Nat. Bank*, 75 Neb 838, 106 NW 996.

abatementurn. The wrongful entry and taking possession of real property by a stranger, before the heir or devisee has entered.
See **abatement**.

abatare. To put an end to; to cut down; to reduce; to diminish.

abate. To quash, beat down, or destroy, as in the case of a nuisance or an objectionable writ.

abatement of action. The entire overthrow or destruction of an action, resulting from the fact that the defendant pleads a matter which defeats the action either for the time being or permanently. 1 Am J2d Abat & R § 1.

A suit at law, when it abates as at common law, is absolutely dead; any further enforcement of the cause of action necessitates the bringing of a new suit. But in courts of equity and also in some law courts proceeding under modern practice statutes or rules, an abatement signifies only a present suspension of all proceedings in the suit because of the want of proper parties capable of proceeding therein; the suit can be revived or put in motion by a bill of revivor and proceed to its regular determination. 1 Am J2d Abat & R § 1.

"Abatement" and "stay of proceedings" are in some respects similar, but are not identical; to abate a suit is to put an end to it, at least for the time. *Simmons v Superior Court*, 96 Cal App 2d 119, 214 P2d 844, 19 ALR2d 288.

See **plea in abatement**.

abatement of bequest. The process of determining the distribution of the assets left by a testator at his death among the various beneficiaries named in the will, where it appears that such assets are insufficient to pay both the debts of the testator and the expenses of administering his estate and also all of the legacies and devices called for by the will. 57 Am J1st Wills § 1457.

abatement of cause of action. The extinguishment of a cause of action upon the death of a party, where the cause is not one which survives. 1 Am J2d Abat & R § 1.

abatement of debt. Proportionate reduction of satisfaction where the fund for payment is insufficient to meet full payment. See *Brown v Brown*, 79 Va 648, 650.

abatement of freehold. The extinguishment of the freehold of heir or devisee by the entry of a stranger between the death of the ancestor or testator who died seized and the entry of the heir or devisee. 3 BI Comm 167.

abatement of nuisance. The extinction or termination of a nuisance whether effected physically by or under the direction of the party injured by the nuisance, or by suit instituted by him.

See **summary abatement**.

abatement of tax assessment. The relief granted against an assessment for illegality or irregularity in the imposition of the tax or, under some statutes, because of the impoverishment of the taxpayer. 51 Am J1st Tax §§ 743 et seq.

abator. An occupier without color of title.

A stranger was so called if where a person died seized of an inheritance, and before the heir or devisee entered, the stranger, who had no right, made an entry and got possession of the freehold. See *Brown v Burdick*, 25 Ohio St 260, 268.

ab auctoritate. From authority or precedent.

abavus. A great-great-grandfather. See 2 Bl Comm 207.

The feminine form "abavia" stands for great-great-grandmother.

abbacinate. To put out the eyes.

abbacy. An abbey and its appurtenances; the jurisdiction of an abbot; the rights and privileges of an abbot.

abbatial. Pertaining to an abbey or an abbot.

abbess. The female head of a nuns' convent, corresponding to the abbot of a monastery.

abbey. A monastery of monks or a convent of nuns.

abbey-land. An estate in real property annexed to an abbey.

abbot. The head monk of a monastery; an Episcopal rector who is head clergyman of a parish.

abbreviate. Verb: to shorten. Noun: an abstract of a longer instrument or writing.

abbreviate of adjudication. Abstract of judgment.

abbreviations. Shortened forms of words obtained by omitting one or more letters or syllables, or by using various signs, symbols, and characters.

The abbreviations more commonly used in modern times consist of initial letters or syllables, the omissions of intermediate syllables, etc., usually being designated contractions. 1 Am J2d Abbr § 1.

abbreviationum, ille numerus et sensus accipiendus est, ut concessio non sit inanis. In abbreviations, that number and sense should be taken which will not avoid the grant.

abbrochment. The ancient offense of forestalling.

ABC. A game of chance, prohibited as gambling where played for a stake. Anno: 135 ALR 120.

ABC Powers. Argentina, Brazil, and Chile.

ABC transaction. A tax-law term for three-party arrangement in financing the purchase of a mineral lease.

abdicate. Entirely to renounce, throw off, disown, relinquish. People v Board of Police (NY) 26 Barb 487, 501.

abdication. The renunciation or abandonment by a person of an office, trust, or sovereignty to which he is entitled.

The word is also frequently applied to a government, as where a government is said to abdicate its taxing power.

abdicatio tutelae. (Civil Law). The resignation of a guardian.

abditorium. A hiding place for the safe-keeping of valuables and relics.

abduct. To take a child from its parent or a wife from her spouse surreptitiously or by force. Doss v State, 220 Ala 30, 123 So 231, 68 ALR 712; 1 Am J2d Abduct § 2.

The word is derived from the Latin word "abducere" and means "to lead away." Anno: 68 ALR 719.

abduction. Unlawful interference with a family relationship by taking or leading a person away, for example, the taking of a child from its parent, irrespective of the consent of the person taken. 1 Am J2d Abduct § 2. Illegally leading away or carrying off a person, more especially the taking or carrying away of a wife, child, a ward, or a voter, by fraud, persuasion, or open violence.

The offense is against the family relationship rather than the person taken and may be committed irrespective of his consent to the taking. 1 Am J2d Abduct § 2.

See **kidnapping; ravishment.**

abductor. One who abducts. See **abduction.**

abearance. "Recognizance with sureties for good behavior. It includes security for the peace, and somewhat more." See 4 Bl Comm 256.

ab epistolis. A subordinate in charge of correspondence.

abet. To give aid, to assist, especially in the commission of a criminal offense. To exertion of a force, physical or moral, joined with that of another in the perpetration of a criminal offense. Anno: 5 ALR 786.

Although there are some offenses which are so defined by statute or by common law that they may be committed only by certain persons or classes of persons, nevertheless a person not within the class of those by whom the crime may be directly perpetrated may, by aiding and abetting a person who is within the scope of the definition, render himself criminally liable. Anno: 131 ALR 1322.

See **accessory; accomplice; aiding and abetting.**

abetment. The act of abetting.

abettare. To aid or abet.

abettor. One who aids, abets or instigates; one who advises, counsels, procures, or encourages another to commit a crime. 21 Am J2d Crim L § 119.

ab extra. From without; from outside.

Extraneous evidence introduced to explain a writing is sometimes called "ab extra." Lunt v Holland, 14 Mass 149, 151.

abeyance. In expectation, remembrance, and contemplation in law.

An estate in fee is in abeyance where there is no person in esse in whom it may vest and abide, although the law considers it as always potentially existing and ready to vest when a proper person in whom it may vest appears. 28 Am J2d Est § 10.

abeyant. The state or condition of an estate or fee which is in abeyance.

abide. To dwell, to obey; to comply with; to perform; to execute; to conform to; as to abide the judgment or order of the court. Jackson v State, 30 Kan 88, 1 P 317.

See **costs to abide event.**

abiding conviction. An expression sometimes used in instructing juries respecting reasonable doubt and there having the signification of settled and fixed, a conviction which may follow a careful examination and comparison of the whole evidence. Hopt v Utah, 120 US 430, 30 L Ed 708, 7 S Ct 614.

abiding faith. A belief or confidence in the guilt of one accused of crime, which remains or continues in the minds of the jury. See Patzward v United States, 7 Okla 232, 54 P 458.

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abiding place. A place of abode.
See **domicil; residence.**

abigeus. A cattle-stealer, singular of "abigei."

ability to act or perform. See **capacity.**

ability to pay debts. See **able to pay; insolvency.**

ability to support. As an element of nonsupport constituting a ground for divorce: -the capacity to work gainfully and opportunity to do so; in some jurisdictions, the possession of property or funds from which support may be provided. 24 Am J2d Divorce & S § 143.

ab impossibili. From an impossibility.

ab inconvenienti. From inconvenience.

ab initio. From the beginning.
See **trespass ab initio; unlawful ab initio.**

ab initio mundi. From the beginning of the world.

ab intestato. From one who left no will, that is, succession to the property of one who dies intestate.

ab intra. From within.

ab invito. Against one's will.

ab irato. In anger.

abishering. The right or privilege of being freed and exempt from forfeitures and amercements.

abjudicate. To deprive by a judgment; to adjudge to be wrong or unlawful.

abjuration of the realm. Originally a renunciation of one's country, upon oath of perpetual banishment, and the doctrine of abjuring the realm, by which a husband became civilly dead, was an incident of the right of sanctuary, which was abolished by statute under James the First. The meaning of the word has changed until it implies simply a total abandonment of the state; a departure from the state without intention of returning. Mead v Hughes' Adm. 15 Ala 141.

See **expatriation**.

able. Legally qualified; legally authorized. Fit for a task.

See **capacity; infancy; insanity. able and willing.**

See **ready.**

able-bodied. The absence of those palpable and visible defects, which evidently incapacitate the person from performing ordinary duties but not necessarily absence from all physical defects. *Darling v Bowen*, 10 Vt 148, 152.

able buyer. A purchaser who has the money at the time to make any cash payment that is required and who is in condition financially to meet any deferred payments. *Reynor v Mackrill*, 181 Iowa 210, 164 NW 335, 1 ALR 523. Not one who might have property upon which he could raise the necessary money. *Reynor v Mackrill*, 181 Iowa 210, 164 NW 335, 1 ALR 523, 528.

A purchaser is not "able" where he is depending upon third parties who are in no way bound to furnish the funds to make the purchase. Anno: 1 ALR 528.

ablegate. An envoy of the Pope.

able to pay. In a majority of the jurisdictions it is held that a promise to pay when the promisor "is able" is a conditional, and not an absolute promise to pay, and that the promisee is not entitled to recover on such a promise unless the promisor is able to pay the debt.

The minority view is that this is an absolute and not a conditional promise. 17 Am J2d Contr § 341.

ablocate. To lease; to let for hire.

abnegate. To give up; to surrender; to renounce.

abnormally dangerous. Fraught with peril not necessarily or inherently connected with the place or thing.

Employees act within their rights in quitting work on the ground that the premises have become "abnormally dangerous," where an accumulation of dust, grit, and dangerous abrasives is consequent upon the failure of a blower. *NLRB v Knight Morley Corp.* (CA6) 251 F2d 753, cert den 357 US 927, 2 L Ed 2d 1370, 78 S Ct 1372, reh den 358 US 858, 3 L Ed 2d 93, 79 S Ct 15.

abode. A dwelling-place; a residence. *Central Mfrs. Mut. Ins. Co. v Friedman*, 213 Ark 9, 209 SW2d 102, 1 ALR2d 557. Sometimes, but not necessarily, synonymous with domicil. 25 Am J2d Dom § 4.

The term "abode" or "usual place of abode" is often synonymous with domicil, but it is not necessarily so, since in some instances one's domicil may be different from his abode. But the "permanent abode" prescribed by statute as necessary to qualify one to vote means nothing more than a domicil or home. 25 Am J2d Dom § 8.

ab olim. Formerly; in times past. 3 Bl Comm 96.

ab olim ordinatum. Formerly ordained. See 3 Bl Comm 96.

abolish. To repeal; to recall; to revoke; to cancel and eliminate entirely.

abolitio legis. The repeal of a law.

abolition. In the broad sense, an entire elimination or extinguishment, for example, the abolition of slavery by the Thirteenth Amendment; in a narrower sense, leave to stop a prosecution.

See **letters of abolition.**

aborticide. The killing of the fetus in the uterus.

abortifacient. Anything used to cause an abortion.

abortion. The expulsion of the fetus at a period of utero-gestation so early that it has not acquired the power of sustaining an independent life. 1 Am J2d Abort § 1.

The crime of "abortion" is the wilful bringing about of an abortion without justification or excuse. 1 Am J2d Abort § 1.

Although there may be a technical distinction recognized in medicine between abortion and miscarriage, the words are usually synonymous in law. *Anderson v Commonwealth*, 190 Va 665, 58 SE2d 72, 16 ALR2d 942; 1 Am J2d Abort § 1.

See **Miscarriage.**

abortionist. One who commits the crime of producing an abortion.

abortive. Anything used to produce an abortion or miscarriage.

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abortive child. Such a child as by an untimely birth is either born dead, or incapable of living. *Cottin v Cottin* (La) 5 Mart 93, 94.

abortive trial. A trial in which no verdict is reached involving no misconduct of a party.

abortus (a-b(5r'tus). An aborted fetus.

about. In reference to time:-a word of flexible significance, denoting an approximation to exactness. 52 Am J1st Time § 30. Signifying present and not future action, as in a representation that one is "about to abandon" a business. 37 Am J2d Fraud § 65. In reference to area, quantity, dimension: -a word whose precise meaning depends upon the surrounding circumstances, frequently used as a synonym for "nearly" or "approximately" and for the purpose of giving a margin for excess or deficiency. 17 Am J2d Contr § 282. A qualifying word in the description of a boundary which is usually to be disregarded if not controlled or explained by monuments or other markers, but may be given meaning in effect when so controlled and explained. 12 Am J2d Bound § 57.

As used in a description of the subject matter in a contract for the sale of real estate, the term "about" is one of precaution or safety, being intended to cover slight and unimportant inaccuracies. 56 Am J1st V & P § 131.

As used in a conveyance in connection with area, the word is generally one of precaution and safety, intended to cover some unimportant inaccuracy, and has been held not to estop either party from setting up a deficiency, or surplus, sufficiently large to raise the presumption that there was not a meeting of the minds. But it has also been held that the obvious common sense meaning of such words is that the parties shall run the risk of gain or loss, and if the area proves greater or less than the area sold, they shall abide by their bargain. See 23 Am J2d Deeds § 247.

In contracts of sale of personalty in estimating the quantity to be delivered, the word is given practically the same meaning as the phrase "more or less," its use being only for the purpose of providing against accidental variations arising from slight and unimportant excesses or deficiencies in number, weight, or measure. See 46 Am J1st Sales § 156.

As used in Workmen's Compensation statutes to describe the locus of the industrial enterprise, it has been treated as enlarging the application of the act, and has been spoken of as an "elastic word." Thus, a workman may be employed "about" or "in," or "on" a factory, although he is on the street adjoining the factory, if the work he is performing is part of the factory business; and also where he is employed in a building adjoining the factory proper, although at some distance from it. 58 Am J1st Workm Comp § 86.

about to. In ordinary grammatical construction, "about" before an infinitive means "on the point of" or "in the act of." It signifies present and not future action. For example, the words "about to abandon" are synonymous with "intended now to abandon." See *Sallies v Johnson*, 85 Conn 77, 81 A 974.

about to remove. An act in removing property, which will soon be performed, rather than one which will be performed within a definite period of time. 6 Am J2d Attach § 242.

above. Higher in the sense of position, as where something is described as above high-water mark; or in the sense of superiority, for example, a higher court. In a higher place; preceding, as where there is a reference in a will to "above bequests." 28 Am J Rev ed Inher T § 493.

See **bail above**.

above named. A sufficient reference in a certificate of acknowledgment to the party acknowledging. 1 Am J2d Ack § 66.

ab ovo. From the egg; that is, from the beginning.

Abp. Abbreviation of Archbishop.

abridge. To reduce; to cut down; to omit a part of a prayer or demand for relief.

To abridge within the meaning of the law of copyright is to preserve the substance, the essence, of the work in more terse language suited to the purpose. 18 Am J2d Copyr § 115.

abridgment. A shortened version. 18 Am J2d Copyr § 42.

abridgment of damages. Reduction of damages by order of court.

abroach. See broach.

abroachment. The purchase of goods wholesale and the sale of them at retail, without offering them in open market.

abroad. Beyond the seas or out of the country.

See **traveling abroad**.

abrogate. To repeal; to make void; to annul.

abrogatio legis. The repeal of a law.

abrogation. The repeal of a law; an avoidance; an annulment.

See **implied abrogation**.

abrogative. Annulling or repealing: as an abrogative statute.

abscond. To withdraw clandestinely, to hide or conceal one's self, for the purpose of avoiding legal proceedings. *McMorran v Moore*, 115 Mich 101, 104.

absconder. One who absconds.

absconding debtor. A person who has gone out of the state, or one who has intentionally concealed himself from his creditors, or withdrawn himself from the reach of their suits, with intent to frustrate their just demand. *Fitch v Waite*, 5 Conn 117, 121.

absence. The state of being away, not being present.

See **effective absence**.

Absence as Evidence of Death Act. One of the Uniform Laws. 1 Am J2d Absent § 2.

absence for seven years. See **presumption of death**.

absence from the state. Out of the state, having left the state. *Montgomery v. Cleveland*, 134 Miss 132, 98 So 111, 32ALR 1151.

In statutes of limitation which provide that the running of the statute is suspended during the defendant's absence from the state, mere temporary absence in another state is insufficient to stop the running of the statute. 34 Am J1st Lim Ac § 218. The provision found in limitation statutes that the statute is not to run when the defendant is absent from the state has been interpreted by most courts not to apply if process could be served notwithstanding such absence. Some courts, however, giving a literal construction to the statute, have held that the provision still applies. 34 Am J1st Lim Ac § 221.

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The expressions "absent from" and "out of the state" have been employed by a majority of the states having limitation statutes with a suspensory provision, and the courts in each of those jurisdictions, with few exceptions have construed such a statute as applying to a defendant who was a nonresident when the cause of action accrued. Anno: 17 ALR2d 506.

Within the meaning of the statute of limitations a corporation's absence from the state begins when it ceases to do business therein, cancels its license, files its resolution of withdrawal and removes its officers and representatives from the state. The Secretary of State and the Commissioner of Securities, its designated attorneys for the service of process, are its agents in no such sense as to represent the continued corporate presence of the corporation in the state. *City Co. of New York, Inc. v Stern* (CA8 Minn) 110 F2d 601.

absence of jurisdiction. See **lack of jurisdiction**.

absent. The state of being away from a place; withdrawal from a place; not existing.

See **absence; absence from the state**.

absentee. A person who, for whatsoever reason, is missing from his residence or who has departed to parts unknown, concerning whose whereabouts no information is forthcoming. 1 Am J2d Absent § 1.

Absentees may be those of whom little or nothing may be known. They may be dead. See *Re Estate of Kite*, 194 Iowa 129, 187 NW 585, 24 ALR 850.

See **absence; absence from the state; absence out of the state**.

absenteeism. Wilful misconduct of an employee for the purposes of unemployment compensation, where persistent or chronic, without notice or excuse, and continued in the face of warnings by the employer. *Kelleher v Unemployment Compensation Board of Review* 175 Pa Super 261, 104 A2d 171, 41 ALR2d 1155; Anno: 41 ALR2d 1158.

Absentees' Property Act. One of the Uniform Laws. 1 Am J2d Absent § 2.

absente reo. In the absence of the defendant.

absentia. See **absence; durante absentia.**

absent out of the state. Beyond the boundaries of the state so that one cannot be reached by process. 34 Am J1st Lim Ac § 215.

absinthe. A highly aromatic but potent liquor of an opaline green color and bitter taste, prepared by steeping in alcohol or strong spirit bitter herbs, the chief of them being wormwood. *Erhardt v Steinhardt*, 153 US 177, 182, 38 L Ed 678, 679, 14 S Ct 715.

absoluta sententia expositore non indiget. Clear sense requires no explanation.

absolute. Free; unconditional; unrestricted; not dependent upon or appurtenant to something else. Anno: 36 ALR2d 151 (absolute gift to spouse.)

The most ordinary signification of the adjective absolute is "unrestricted" or "unconditional." Thus, an absolute estate in land is an estate in fee simple. Also, in the law of insurance, an absolute interest in property is one which is so completely vested in the individual that there could be no danger of his being deprived of it without his own consent. See *Columbia Water Power Co. v Columbia Electric Street Railway Light & Power Co.*, 172 US 475, 491, 43 L Ed 520, 527, 19 S Ct 247.

See **conditional; rule absolute.**

absolute acceptance. The unqualified assent to liability by the drawee on a bill of exchange.

Words written on a bill of exchange which demonstrate the intention to accept it are sufficient for that purpose. 11 Am J2d B & N § 507.

absolute assignment. An outright transfer of title, as distinguished from a transfer by way of security.

absolute control. The term imports that the person having such control is able to direct operations as he thinks best, without let or hindrance or direction by any other person, and that he is free to do what he thinks best in directing such operations. *People v Boggess* 75 Cal App 499, 243 P 478.

absolute conveyance. A conveyance free from conditions.

absolute covenant. An unconditional covenant.

absolute deed. See **absolute conveyance.**

absolute deed as mortgage. An instrument in the form of a deed which is given effect as a mortgage. 36 Am J1st Mtg §§ 125 et seq.

absolute delivery of deed. The simplest mode of delivering a deed is by manual transfer of it to the grantee, with the intention of relinquishing all control over the instrument and of passing title to the property. This delivery is defined as "absolute delivery," and undoubtedly it constitutes a consummation of the deed. 23 Am J2d Deeds § 91.

absolute divorce. A judicial dissolution or termination of the bonds of matrimony, because of marital misconduct or other statutory cause arising after the marriage ceremony, with the result that the status of the parties is changed from coverture to that of single persons. 24 Am J2d Div & S § 1.

absolute embargo. See **embargo**.

absolute estate. An estate in real property of which the owner has complete, unqualified and unconditional possession, control, dominion, and right of disposition, and which descends to his heirs upon his death, if his will does not otherwise direct.

See **absolute owner; fee; fee simple**.

The words "absolute estate" which appear in a will making bequests in trust as well as bequests of a full and complete interest has reference to the bequests other than those in trust. *Hills v Hart*, 136 Conn 536, 72 A2d 807.

absolute gift. So long as the condition or qualification imposed in the making of a gift is not inconsistent with the vesting of title in the donee, the gift is not invalidated for want of absolute character in the transfer. 24 Am J1st Gifts § 44.

absolute guaranty. An unconditional undertaking on the part of the guarantor that the debtor will pay the debt or perform the obligation. 24 Am J1st Guar § 16; Anno: 53 ALR2d 525.

A contract of guaranty is absolute where one absolutely guarantees the payment of money to another, where the amount of the payment is certain and definite, and where the time of payment is likewise determined certainly. *Schulderberg-Kurdle Co. v Trice*, 198 Va 85, 92 SE2d 374, 57 ALR2d 1204.

absolute interest. The nature of ownership of a thing objectively and lawfully appropriated by a person to his own use in exclusion of all others. *Griffith v Charlotte, C & A R Co.*, 23 SC 25.

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In the law of insurance, an absolute interest in property is one which is so completely vested in the individual that there could be no danger of his being deprived of it without his own consent. *Columbia Water Power Co. v Columbia Electric Street Railway, Light & Power Co.*, 172 US 475, 491, 43 L Ed 520, 527, 19 S Ct 247.

See **absolute estate; limited interest**.

absolute liability. Liability for an injury resulting to another where no account is taken of the standard of care exercised, often called insurer's liability. 38 Am J1st Negl § 4. Criminal liability of which intent not an element. 21 Am J2d Crinn L § 91. Liability of a principal as distinguished from that of a guarantor or surety.

The word as used in a Motor Vehicle Financial Responsibility Act providing that the liability of the insurer under the policy shall become absolute upon occurrence of the accident means that there shall be no defenses to liability of the insurer based upon any statement made by or on behalf of the insured or upon exclusions, conditions, terms, or language contained in the policy. *Farm Bureau Auto. Ins. Co. v Martin*, 97 NH 196, 84 A2d 823, 29 ALR2d 811

absolutely. Independently or unconditionally; wholly; positively. *Collins v Hartford Acci. & Indem. Co.* 178 Va 501, 17 SE2d 413, 137 ALR 1046; Anno: 36 ALR2d 151 (gift to spouse "absolutely").

absolutely privileged communications. See **absolute privilege**.

absolute nuisance. A distinct civil wrong arising or resulting from the invasion of a legally protected interest, and consisting of an unreasonable interference with the use and enjoyment of the property of another; the doing of anything or the permitting of anything under one's control or direction to be done without just cause or excuse, the necessary consequence of which interferes with or annoys another in the enjoyment of his legal rights; the unlawful doing of anything or the permitting of anything under one's control or direction to be done which results in injury to another; or the collecting and keeping on one's premises of anything inherently dangerous or likely to do mischief if it escapes, which, escaping, injures another in the enjoyment of his legal rights. Anno: 73 ALR2d 1395.

absolute owner. A person in whom are combined at one time the right of possession, and the right of property. *Harris v Southeast Portland Lumber Co.*, 123 Or 549, 262 P 243.

A vendee in possession under an executory contract for the purchase of the property is an absolute owner for purposes of fire insurance. *Libby Lumber Co. v Pacific States Fire Ins. Co.* 79 Mont 166, 255 P 340.

Each of two persons owning in severalty respective shares of personal property insured is the absolute owner of the property, within the meaning of a question and answer as to such ownership in an application for insurance thereon. *Beebe v Ohio Farmers Ins. Co.*, 93 Mich 514, 53 NW 818.

absolute pardon. A pardon to which no conditions are attached by the authority granting it. 39 Am J1st Pard §§ 4, 5.

absolute predestination. A doctrine of some religious denominations that God foreknew and predestined all things whatsoever that may come to pass. See *Bennett v Morgan*, 112 Ky 512, 519, 66 SW 289.

absolute privilege. The privilege which exists in the law of defamation when by reason of the occasion on which a defamatory communication is made or the matter in reference to which the communication is made, no remedy can be had in a civil action. Anno: 13 ALR2d 893; 33 Am J1st L & S § 125.

absolute rights. Rights incident to the ownership of property, rights growing out of contractual relations, or the right to enter or refuse to enter into contractual relations.

These rights the individual may exercise without reference to his motive as to any injury resulting therefrom directly, since the courts, apparently on the ground of expediency, have consistently held that such an injury is not a legal injury in the sense that it is actionable. On the other hand, under the guise of exercising an absolute right, it is not lawful, according to some authorities, indirectly to interfere with the business, employment, or occupation of a third person, where the exercise of the right is with the object of injuring the latter rather than primarily benefiting the person exercising such right. 30 Am J Rev ed Interf § 51.

See **absolute estate**; **absolute owner**.

absolute rule. Same as rule absolute.

absolute warrantice (Scotch). An absolute warranty, whereby the grantor warrants against every imperfection in the thing or right conveyed.

absolute warranty. A warranty of personalty, made in a sale thereof, to which no conditions are attached. 46 Am J1st Sales § 301.

The covenant of warranty in a deed of real estate is an assurance by the grantor that the grantee and his heirs and assigns shall enjoy it without interruption by virtue of a paramount title and that they shall not, by force of a paramount title, be evicted from the land or deprived of possession thereof. 20 Am J2d Cov § 50.

absolution (Civil Law). A judgment declaring a defendant to be innocent of the crime charged.

absolutism. The principle of absolute power in the sovereign.

absolutist. An advocate of the principle of absolute power in the sovereign.

absolve. To acquit; to set free; to release.

absolvitor. A judgment of absolution.

absorbed tax. Where the price designated in the contract is a composite price, made up of various unspecified elements of cost in which is included the tax, not as a separate item, but as an integral part thereof, the tax is generally regarded as "absorbed or buried" in the price. 46 Am J1st Sales § 184; Anno: 115 ALR 667, supplemented in 132 ALR 706.

absque. Without.

absque aliquo inde redendo. Without reservation of rent.

absque consideratione curiae. Without the consideration of the court.

absque damno. See **injuria absque damno**.

absque hoc. Without this.

See **special traverse**.

absque impetitione vasti. Without impeachment of waste, a clause in a deed or lease signifying that the grantee or lessee shall not be liable for waste. See 2 Bl Comm 283.

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absque injuria. Without violation of a legal right.

See **damnum absque injuria**.

absque tali causa. Without such cause.

abstract. Verb: to take without Fight. 10 Am J2d Banks § 224. To glean and state the pith of a discussion. Noun: an abridgment.

abstracter. One who prepares abstracts of title.

See **certificate of abstracter**.

abstract idea. A concept which has not been put in tangible form so as to be a subject of copyright, but which may be a subject of protection by contract. 18 Am J2d Copyr § 3.

abstract instruction. An instruction to the jury, which is generally regarded as insufficient and erroneous, that does not apply the law to the facts but is merely all abstract proposition of law. 53 Am J1st Tr § 573.

abstraction. A taking; a removal, especially a wrongful taking or removal.

Under the National Bank Act, the act of one who, being an officer of a national banking association, wrongfully takes or withdraws from it any of its moneys, funds, or credits, with intent to injure or defraud it or some other person or company, and, without its knowledge or consent, or that of its board of directors, converts them to the use of himself or of some person or company other than the bank. It is not necessarily the same as embezzlement, larceny or misapplication of funds. *US v Northway*, 120 US 327, 39 L Ed 664, 7 S Ct 580.

abstract of a fine. An abstract of the writ of covenant and the concord, naming the parties, the parcels of land, and the agreement, in a proceeding to alienate land by levying a fine. See 2 Bl Comm 351.

abstract of article. An abridgment, a less quantity containing the virtue and force of a greater quantity. That which comprises or concentrates in itself the essential qualities of a larger thing, or of several things; a compendium, epitome, or synopsis. *Hess v Draffen & Co.* 99 Mo App 580, 585, 74 SW 440.

abstract of judgment. A brief transcript of the essentials of a judgment.

abstract of record on appeal. A complete history in short, abbreviated form of the case as found in the record, complete enough to show that the questions presented for review have been properly preserved in the case, and to give a full understanding of the questions presented. 4 Am J2d A & E §§ 407, 408.

abstract of title. A short account of the state of the title to real estate, or a synopsis of the instruments which show title-an epitome of the record evidence of title. 1 Am J2d Abstr T § 1.

It should contain a full summary of all grants, conveyances, wills and all records and judicial proceedings whereby the title is in any way affected, and all incumbrances and liens of record, showing whether they have been released or not. 1 Am J2d Abstr T § 1.

A proper abstract requires a certification by all abstracter. 55 Am J1st V & P § 295.

abstract on appeal. See **abstract of record**.

abstract question. A moot, theoretical, academic, hypothetical, or speculative question. 20 Am J2d Cts § 81; 22 Am J2d Dec J § 10.

absurdity. Not only that which is physically impossible, but also that which is morally so.

That is to be regarded as morally impossible which is contrary to reason, or in other words, which cannot be attributed to a man in his right senses. *State v Hays*, 81 Mo 574, 585.

Ab uno disce omnes. From one part all may be learned. *Nicholas' Estate*, 8 Pa Dist 725, 726.

ab urbe condita. From the founding of the city. The Roman era began with the founding of Rome in 753 B. C.

abuse. From the Latin, "ab" and "utor;" to injure; to diminish in value; to wear away by using improperly. To wrong in speech, reproach coarsely, disparage, revile, malign. *Campf v State*, 80 Ohio St 321, 88 NE 887.

abuse. Ill treatment by physical means or by coarse insulting speech; improper treatment or use of something such as process.

Under a statute punishing the abuse in an attempt to have carnal knowledge of a female child, the word "abuse" applies only to injuries to the genital organs in an unsuccessful attempt at rape, and does not include mere forcible or wrongful illusage. 44 Am J1st Rape § 18.

abuse of discretion. Decision by whim or caprice, arbitrarily, or from a bad motive which amounts practically to a denial of justice as a clearly erroneous conclusion, one that is clearly against logic and effect of the facts presented. 5 Am J2d A & E § 774.

Abuse of judicial discretion, within the rule that all appellate court will not disturb the discretionary action of the court below unless the discretion was abused, is an exercise of discretionary power to an end or purpose not justified by, and clearly against, reason and evidence. *Re Crane's Estate*, 201 Okla 354, 206 P2d 726, 9 ALR2d 524.

There is no hard and fast rule by which an abuse of discretion may be determined, but in general an exercise of discretion, not to amount to an abuse, must be legally sound; there must be an honest attempt by the court to do what is right and equitable under the circumstances and the law, without the dictates of whim or caprice. 5 Am J2d A & E § 774.

abuse of distress. Making use of a distrained animal or chattel and thereby committing a conversion of it.

abuse of privilege. See **excess of privilege**.

abuse of process. The malicious perversion of a regularly issued civil or criminal process, for a purpose, and to obtain a result not lawfully warranted or properly attainable thereby, and for which perversion an action will lie to recover the pecuniary loss sustained. 1 Am J2d Abuse P § 1.

Malicious use of process is the employment of process for its ostensible purpose, but without reasonable or probable cause, whereas the malicious abuse of process is the employment of a process in a manner not contemplated by law, or to effect a purpose which such a process is not intended by law to effect. 1 Am J2d Abuse P § 2.

abusive language. Cruelty amounting to a ground for divorce, where it is so intense as to cause mental suffering sufficient to impair health. 24 Am J2d Div & S § 48.

abut. To end at; to border on; to reach or touch with an end, as where a lot touches the highway. *Hensler v Anacortes*, 140 Wash 184, 248 P 406.

See **abutting owners**.

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abutments. The masses of stone or solid work at the ends of a bridge by which the extreme arches or timbers are sustained.

They are as much a part of the bridge itself as are the pier, the arch, or the timbers. *Freeholders of Sussex v Strader*, 18 NJL 108.

abuttal. The part of a tract of land which abuts; a boundary line.

abutting. See **abutting owners; fronting and abutting**.

abutting owners. Those owners whose lands touch a highway or other public place. 1 Am J2d Adj L § 1; 25 Am J1st High § 153.

It is arbitrary to limit the meaning of "abutting owners" to lands bordering a highway and not to speak of lands as "adjoining" a highway, but the usefulness of a distinction in legal articles between lands that abut on a highway and adjoining lands generally, arbitrary and fanciful although it may be, is not to be denied. 1 Am J2d Adj L § 1.

academic question. A theoretical, abstract, hypothetical, or speculative question, involving no actual controversy over rights. 20 Am J2d Cis § 81; 22 Am J2d Dec J § 10.

academy. The word originally meant a garden, grove, or villa, near Athens, where Plato and his followers held their philosophical conferences; but now it is most commonly used to mean a school or seminary of learning (holding a rank between a university or college, and a common school), in which the arts and sciences in general are taught. See *Academy of Fine Arts v Philadelphia County*, 22 Pa 496, 498; Anno: 95 ALR 63.

ace. An abbreviation for in accord with or consonant with.

accedas ad vice comitem. A writ directed to the coroner to compel a sheriff to make return of a writ.

accede. To attain an office or dignity; to give consent; to assent to a treaty.
See **accession**.

acceleration clause. A clause in a note or mortgage stipulating that the whole debt secured thereby shall become due and payable upon the failure of the maker to pay the interest annually or to comply with any other condition of the contract. 11 Am J2d B & N § 181; 36 Am J1st Mtg § 385.

acceleration of estate. The shortening of the time at which a future estate is to vest, as where the precedent estate fails to come into existence, or, having come into existence, terminates prematurely. 28 Am J2d Est § 304.

The most familiar case of acceleration is that where a widow given a life estate renounces the will and elects to take her dower or statutory interest instead, whereby the remainderman takes immediately as if the widow had died. 28 Am J2d Est § 307.

acceleration of maturity. The shortening of the time for the payment of a note or the payment of money called for by a contract. 11 Am J2d B & N §§ 179 et seq; 17 Am J2d Contr § 337. Making all instrument to become due and payable prior to the maturity date stated therein by the payee's exercise of an option provided him. The operation of an automatic provision for acceleration upon default. 11 Am J2d B & N §§ 179 et seq.

acceleration of remainder. See **acceleration of estate**.

accept. To receive with the intent to retain; to give assent. *Kidd v New Hampshire Traction Co.* 74 NH 160, 171, 66 A 127.

acceptance. The actual or implied receipt and retention of thin which is tendered or offered.

A receipt alone does not amount to all acceptance, but anything done by the receptor as owner is evidence of all acceptance. *Patterson & Holden v Sargent*, 83 Vt 516, 77 A 338.

The acceptance of the goods constituting the subject of a sale has all important bearing upon the passing of title from the seller to the buyer where the contract is executory; it is also a material consideration in respect of the satisfaction of the statute of frauds where the contract is parol. 46 Am J1st Sales § 411. In a sale of personal property the term covers more than a mere receipt of the goods by the purchaser and implies some act done by him after he has exercised, or has had the means of exercising, his right of rejection. *Patterson & Holden v Sargent*, 83 Vt 516, 77 A 338.

acceptance by mail. The acceptance of all offer made by mail is complete upon depositing tire letter of acceptance in the postoffice, postage prepaid, and directed to the offeror's proper address, provided it is done in proper season and before

receiving any intimation of a revocation of the offer; it is immaterial whether the letter actually reaches the offeror. 17 Am J2d Contr § 48.

acceptance for honor. The acceptance of a bill of exchange by a person other than the drawee, voluntarily and without consideration.

It is allowed for the convenience of commerce, that such a person may, after presentation, refusal, and protest, accept for the honor of the drawer, or any of the indorsers, or all of the parties, as he may see fit, but this is done supra protest and in accord with settled forms. Heenan v Nash, 8 Minn 407. Provisions for acceptance for honor have been eliminated from the Commercial Code as unnecessary in this day of rapid communications whereby notice Of dishonor is give[] so rapidly that air acceptance for honor is no longer necessary to protect the credit of the drawer. 11 Am J2d B & N § 506.

acceptance in blank. The act of the drawee of a bill of exchange in merely signing his name across the face of the bill.

acceptance of bill of exchange. The drawee's signed engagement to honor the bill as presented; the signification by the drawee of his assent to the order of the drawer and his agreement to pay the bill when it falls due. 11 Am J2d B & N § 500.

The contract of the acceptor, by his acceptance, is, that he will pay the bill, upon due presentment thereof, at its maturity, or its becoming due. 11 Am J2d B & N § 500.

acceptance of bribe. See **bribery**.

acceptance of charter. An act essential to the existence of a corporation when the mode of its creation is by special grant to a designated person or persons.

This act may be express, its where it appears oil the records of the corporation, or it may be presumed or inferred, as where corporate powers have been assumed or exercised after the granting of the charter. 18 Am J2d Corp § 27.

acceptance of check. The certification of a check.

The purpose and effect of procuring a check to be

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accepted or certified by the bank on which it is drawn is to impart strength and credit to the paper by obtaining an acknowledgment from the bank that the drawer has funds therein sufficient to cover the check, and securing the engagement of the bank that the check will be paid upon presentation. 10 Am J2d Banks § 578.

Any act on the part of the bank upon which a check is drawn which demonstrates an intention to become bound for payment will constitute an acceptance. It is nor essential that the acceptance be Written Upon the check itself. A drawee bank makes itself liable by a contract of acceptance extrinsic to the check itself whenever the plain import of the language used is that of a contract of acceptance. 10 Am J2d Banks § 581.

acceptance of dedication. An essential element of a completed dedication, which may be either express or implied, by formal action or by public use. 23 Am J2d Ded § 50.

acceptance of deed. A manifestation by act, conduct, or declaration of an intention to take the legal title to the property which the instrument purports to convey, after an antecedent delivery or tender of the deed to the knowledge of the grantee accepting. 23 Am J2d Deeds § 128.

acceptance of draft. Same as **acceptance of bill of exchange**.

acceptance of gift. A donee's exercise of dominion over, or the assertion of rights to, the subject of the gift. 24 Am J1st Gifts § 40.

acceptance of goods. See **acceptance**.

acceptance of issue. Formally to accept the tender of an issue made by the pleadings.
The technical term is **similiter**.

acceptance of nomination. A filed approval by the candidate of a nomination as a candidate for public office, sometimes required as a condition of having the name of the candidate printed on the ballot. 25 Am J2d Elect § 133. A formal speech of acceptance by a candidate for President, following his nomination at a national convention of a political party.

acceptance of offer. A fundamental element of a binding contract; the assent of the offeree to the offer as made by the offeror, whereby the engagement is made and the parties become bound as contracting parties. 17 Am J2d Contr § 18.

The assent requisite to the creation of a contract is an objective thing manifested by intelligible conduct, act, or sign; it is not determined by secret intentions but by expressed or manifested intentions. 17 Am J2d Contr § 19.

acceptance of office. The assumption of the powers and prerogatives of an office to which one has been legally elected or appointed. *Ekwall v Stadelman*, 146 Or 439, 30 P2d 1037.

acceptance of performance. The waiver of perfect and complete performance of the terms of a contract by accepting performance different from that stipulated in the contract.

Such acceptance may be express or it may be implied from conduct. 17 Am J2d Contr § 393.

acceptance of plea. The reception by the court in a criminal prosecution of a plea of guilty.

There are statutory limitations upon the acceptance of a plea in a capital case and in any case where it is open to the accused to plead guilty, the court is under a duty to determine whether the plea is voluntary and to admonish the accused of the consequences of the plea. 21 Am J2d Crim L §§ 484 et seq.

acceptance of service. Dispensing with the formalities attending service of process by acknowledging the service, which acknowledgment is generally effective to confer the same jurisdiction as would have been conferred by a formal service of the process, 42 Am J1st, Proc § 33.

acceptance supra protest. See **acceptance for honor**.

accepter. Same as **acceptor**.

accepting wagers. Taking bets. Acting as the "banker" in a gambling game.

acceptor. One who accepts a bill of exchange and trust binds himself to pay it.

acceptor for honor. See **acceptance for honor**.

acceptor supra protest. See **acceptance for honor**.

access. Opportunity to come and go from premises. An easement of way, whether arising from express or implied grant, express or implied reservation. The right of a person to a designated benefice which is temporarily in abeyance. The opportunity of a husband for sexual intercourse with his wife.

See **presumption of access.**

accessary. Same as **accessory.**

accessio. See **accession.** The right of an owner of personal property to the personal property of another which is incorporated into or united with his property.

Sometimes the term is given a broader significance to include rights which an owner of real or personal property has to any increase thereto from any cause, natural or artificial. In any event, rights by accession include accession of other materials as well as additions by skill or labor. 1 Am J2d Access § 1. They also include the right of the mortgagee under a chattel mortgage to additions to the mortgaged chattel. 15 Am J2d Chat Mtg § 68.

accession. A nation's assent to a treaty.

See **specification.**

accessio possessionis. See **tacking.**

accessorial. Pertaining to an accessory.

Accessorium non ducit, sed sequitur summ principalis. That which is but accessory does not lead, but follows the principal thing.

"The land is the principal thing, the accretion is but an accessory." Plaintiff's brief in *Banks v Ogden*, US 2 Wall 57, 17 L Ed 818.

Accessorium non trahit principale. The accessory right does not control the principal.

Accessorius sequitur naturam sui principalis. The accessory follows the condition of his principal. Hence, an accessory cannot be guilty of a higher crime than his principal. See 4 Bl Comm 36.

accessory. A subordinate working part of a larger machine or instrumentality, for example, the windshield wipers on an automobile. A person who in some manner is connected with a crime, either before or after its perpetration, but who is not present at the time the crime is committed. 21 Am J2d Crim L § 115.

See **accomplice.**

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accessory after the fact. A person who, knowing a felony to have been committed, receives, relieves, comforts, or assists the felon, or in any manner aids him to escape arrest. 21 Am J2d Crim L § 126.

accessory at the fact. Persons who were present at the commission of a crime only for the purpose of aiding, countenancing, or encouraging its perpetration, were, by the most ancient writers on the common law of England, described as accessories at the fact. Hence, they could not be brought to trial until the principal offenders had been convicted or outlawed. See note to *State v Hildreth*, 51 Am Dec 373. There seems to be no room for this classification under modern views.

See **accessory.**

accessory before the fact. One whose will contributes to a felony committed by another as principal, yet who is too far away to aid in the felonious act. There are statutes which abolish the distinction between an accessory before the fact and a principal, providing that the latter is subject to prosecution and conviction as a principal. 21 Am J2d Crim L § 124.

accessory building. An outbuilding so detached from the dwelling on the premises as not to be considered properly a component part thereof. 58 Am J1st Zon § 50 supp.

accessory contract. A contract subordinate to the main or principal one, usually made for the purpose of securing the performance of the principal contract.

See **subcontract**.

accessory obligation. An obligation subordinate to the main or principal one.

accessory use. A use of premises which is dependent on or pertains to the principal or main use. 58 Am J1st Zon § 46.

access to courts. The right to resort to the courts on equal terms with others for the enforcement of one's rights and the obtaining of justice on the presentation of one's defenses. 16 Am J2d Const L § 382.

accident. An occurrence by chance or not as expected. *Haser v Maryland Casualty Co.* 78 ND 893, 53 NW2d 508, 33 ALR2d 1018; Anno: 8 ALR2d 409. In lesser scope, an occurrence which could not have been foreseen by the exercise of reasonable prudence, one which happens unexpectedly from the uncontrollable operations of nature alone, and without human agency, 38 Am J1st Neg § 6.

The word "accident" in a bill of lading, which refers to events involving damage to the property carried for which the carrier is to be liable, includes the result of any human fault for which the carrier may be liable; it is not synonymous with "mere accident" or "purely accidental." *Ullman v Chicago & N. W. R. Co.* 112 Wis 150, 88 NW 41.

The word "accident" in a policy of insurance insuring against injury by accident means an event that takes place without one's foresight or expectation—an event that proceeds from an unknown cause, or is an unusual effect of a known cause, and therefore not expected. 29A Am J Rev ed Ins § 1164.

An "accident" within the meaning of an automobile insurance policy indemnifying against loss by collision or upset includes any event which takes place without the foresight or expectation of the person acted upon or affected thereby. *Riley v National Auto Ins. Co.* 162 Neb 658, 77 NW2d 241, 57 ALR2d 1219.

As the word is used in an automobile liability insurance policy, it means an undesigned, unexpected happening which produces injury or damage. It does not include injuries caused intentionally. Anno: 117 ALR 1175; 18 ALR2d 456.

An "accident" within the meaning of a policy insuring against liability incident to ownership or use of premises does not include an event which has its inception in a wilful act of the insured. 29A Am J Rev ed Ins § 1359.

As used in the phrase "injury arising by accident" in compensation statutes the term is interpreted in the popular and ordinary sense, and is generally construed as meaning an occurrence which is neither expected, designed, nor intentionally caused, by the workman. 58 Am J1st Workm Comp § 196.

In the phrase "by accidents arising out of and in the course of the employment," found in Employers' Liability Acts, "accident" signifies any un-toward and unexpected event, the term being used in its popular sense. 35 Am J I st M & S § 422.

The term within the meaning of the equitable principle under which relief is granted for "accident" means an occurrence without intention on the part of the complainant and one which he was unable to see and avert. 19 Am J2d Equity § 44.

See **inevitable accident; unavoidable accident**.

accidental. By accident; by chance or fortuitously, without intention or design; unexpected, unusual, and unforeseen. 29A Am J Rev ed Ins § 1164.

The word is used in its ordinary popular sense in accident policies and means happening by chance, unexpectedly taking place, not according to the usual course of things, or not as expected; so, if in the preceding act something unexpected or unusual occurred, which produced the catastrophe which caused the injury, then the injury was accidental. Anno: 105 ALR 1428; 148 ALR 611; 27 ALR2d 1013; 33 ALR2d 1027; 56 ALR2d 800; 57 ALR2d 1229; 85 ALR2d 1057.

The mere apprehension that an injury might occur does not deprive the actual occurrence of accidental character within the meaning of a workmen's compensation act. 58 Am J1st Workm Comp § 196.

accidental cause. An unavoidable cause, one which cannot be avoided by the exercise of due diligence and foresight, and which reasonably prudent men would not ordinarily anticipate and avoid. *Chicago, Burlington & Quincy R. Co. v United States*, (CA8 Neb) 194 F 342, 334.

accidental death. One that occurs unforeseen, undesigned, and unexpected. 29 Am J Rev ed Ins § 1166. One which occurs by accident, that is, was not designed or anticipated, albeit it may occur in consequence of a voluntary act. Anno: 26 ALR 119; 56ALR 1091; 166ALR469; 12 ALR2d 1270; 52 ALR2d 1083.

accidental injury. An injury which occurs by accident, being undesigned and not anticipated, although it may result from a voluntary act. Anno: 29 ALR 691; 39 ALR 871; 44 ALR 372; 56 ALR 1091; 90 ALR 620; 109 ALR 892; 166 ALR 469. An injury incurred in a manner and by a force that is unforeseen, undesigned, and unexpected, 29A Am J Rev ed Ins § 1166.

The mere apprehension that an injury such as did

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occur was likely to occur in some indefinite time in the future does not deprive the actual occurrence of its accidental character, 58 Am J1st Workm Comp § 196.

accidentally thrown from. A hurling or catapulting of a person from a vehicle. 29A Am J Rev ed Ins § 1243.

accidental means. Characterizing the nature of the cause of a happening by chance and without intention or design, which is unforeseen, unexpected and unusual at the time it occurs. 29A Am J Rev ed Ins § 1165; A11110: 17 ALR 1199.

Where the death is the result of some act, but was not designed, and not anticipated by the deceased, though it be in consequence of some act voluntarily done by him, it is accidental death; but where death is caused by some act of the deceased, not designed by him, or not intentionally done by him, it is death by accidental means. See *Ogilvie v Aetna Life Ins Co.*, 189 Cal 406, 411, 209 P 26, 26 ALR 116, 119.

An injury received by making an intentional assault on another person by striking him in the face with the fist has been held not to have been by accidental means, within the meaning of an accident policy insuring against injuries received through accidental means. See *Fidelity & Casualty Co. v Carroll*, (CA4 SC) 143 F 271.

For a death to occur by accidental means within the meaning of a life insurance policy, the immediate and proximate cause of the death must be accidental; a death is not by accidental means if it results as the natural and probable consequence of the voluntary act of the insured. *Prudential Ins. Co. v Gutowski* (Sup) 49 Del 233, 113 A2d 579, 52 ALR2d 1073.

Although the courts in the past have drawn a distinction between "accident" and "accidental means," in recent years the terms have come to be regarded as legally synonymous. 29A Am J Rev ed § 1166.

To attempt such a fine distinction is to plunge this branch of the law of insurance into a "Serbogian Bog." Dissenting opinion of Mr. Justice Cardoza. in *Landress v Phoenix Mot. Life Ins. Co.* 291 US 491, 78 L Ed 934, 54 S Ct 461, 90 ALR 1382, which appears to have been of great weight on the side of eliminating the distinction.

accidental result. An unusual or unexpected result of an intentional act. 29A Am J Rev ed Ins § 1166.

accident insurance. A policy or contract of insurance whereunder the insurer agrees to pay to the insured or a beneficiary named in the policy a stated sum for disability of the insured incurred by accident, for the death of the insured caused by accident, for the loss suffered by the insured through accident of a leg, arm, or other member of the body, or, in the terms of some policies, a stated sum upon the sustaining of any of such losses by accidental means.

See **accident; accidental; accidental means; general accident policy.**

accident report. The report of a motor vehicle accident made to a police officer or other public official by the operator of a vehicle involved therein, the giving of which is a most common statutory requirement. 8 Am 32d Auto § 959. A common requirement in industry and the transportation business, an employee being required by the terms of employment to report all accidents to the employer, the superintendent or foreman. A requirement under boating regulations. 12 Am J2d Boats § 19.

accion. A word from the Spanish law which appears to stand for what is known in American and English law as a right of action. See *Welder v Lambert*, 91 Tex 510, 44 SW 281.

Accipere quid ut justitiam lacias, non est tam accipere quam extorquere. The acceptance of something for doing justice is not so much an acceptance as an extortion.

acclamation. Approval. The spontaneous approval in a deliberative assembly of a resolution, measure or candidate by voice, without counting heads.

accola. A tenant farmer under the feudal law.

accollade. An award; words of praise, the word having been first used to denote the ceremony by which knighthood was conferred.

accomenda. A contract by which the master of a vessel agrees to sell the goods or the shipper for their joint account.

accommodated indorser. See **accommodated party.**

accommodated party. The person for whose benefit another known as the accommodation party signs a bill or note as maker, drawer, acceptor or indorser, thereby lending the credit of his name to the former. 11 Am J2d B & N § 121.

An indorser is accommodated when the maker, drawer or acceptor of a negotiable instrument makes , draws, or accepts it for his benefit, without consideration. *Lucas v Swan*, (CA4 W Va) 67 F2d 106, 90 ALR 210.

accommodation. An obligation assumed without consideration. A favor.

accommodation acceptance. The acceptance of a bill of exchange for the purpose of lending credit to another party. 11 Am J2d B & N § 121.

accommodation bill. A bill of exchange on which the maker, indorser, or acceptor has assumed liability, in order to tend the credit of his name to another party. 11 Am J2d B & N §121.

accommodation indorser. A person who has indorsed a bill or note for the purpose of lending the credit of his name to another party. 11 Am J2d B & N § 121.

accommodation land. Land which a speculator or builder has built upon or improved in order to secure increased rents.

accommodation maker. The drawer of a bill, or the maker of a note, to which he has put his name for the purpose of accommodating, by a loan of his credit some other person who is to provide for the bill or note when it falls due. 11 Am J2d B & N § 121.

accommodation note. A promissory note on which the maker or indorser has assumed liability in order to lend his name to another person. 11 Am J2d B & N § 121.

accommodation paper. A bill or note which one has signed as a maker, drawer, acceptor, or indorser for the purpose of lending the credit of his name to another. 11 Am J2d B & N § 121.

accommodation party. A person who has signed a bill or note as maker, drawer, acceptor, or indorser for the purpose of lending his name to the credit of some other person. 11 Am J2d B & N § 12 1.

Under the Commercial Code, absence of consideration is not a requisite of status as an accomodation party, the essential characteristic being that he signed as a surety, not that he signed gratuitously. 11 Am J2d B & N § 121.

accommodation road. A road for access to private property; a spur track of a railroad.

accommodation train. One which is scheduled to stop at local or way stations. Gray v Chicago, Mil-waukee & St. Paul Railway Co. 189 Ill 400, 59 NE 950.

accommodation works. Structures such as bridges, ways, fences, gates, etc. which a railroad is required to build and maintain for the benefit of the owners of land adjoining the right of way.

accompanied. Attended. Going with.

The word, as used in a statute, does not necessarily mean "simultaneously," but may mean "in relation to," "connected with," or "to follow." Tucker v Kerner (CA7 Ill) 186 F2d 79, 23 ALR2d 1027. Anno: 143 ALR 1457.

accompanied by licensed driver. See **riding with or accompanied by licensed driver.**

accomplice. One who knowingly, voluntarily, and with a common interest with others participates in the commission of a crime as a principal, accessory, or aider and abettor.

So far as his criminal liability is concerned, the question is whether he participated as a principal or as an accessory, aider or abettor; the term "accomplice" has no legal significance in deciding the question of his own guilt. Such term becomes significant if he is called as a witness and testifies upon the trial of another person and it is contended that, since he is an accomplice, his testimony is insufficient to support a conviction. 21 Am J2d Crim L § 118; 26 Am J1st Homi § 458.

accomplish. To complete performance; to fulfil one's obligation. Anno: 38 ALR 890.

accompt. Same as **account.**

accord. Literally, an agreement: in law, an agreement by one party to give or perform, and by the other to accept, in settlement of an existing claim, something other than that which is claimed to be due. 1 Am J2d Accord § 1.

accordance. Agreement; harmony in purpose.

accord and satisfaction. An executed agreement of accord. 1 Am J2d Accord § 1.

In order to be a satisfaction there must be an accord or agreement to accept in extinction of the obligation something different from or less than that which the creditor is claiming or is entitled to. The acceptance of the consideration of an accord satisfies the obligation. *Homewood Dairy Products Co. v Robinson*, 254 Ala 197, 48 So 2d 28, 22 ALR2d 1059.

accord executory. See **executory accord**.

according to law. Legal.

Administering an estate according to law means to administer it according to the will of the decedent in case the estate is testate. 31 Am J2d Ex & Ad § 127.

according to the tenor. According to the meaning or purport.

The words "according to the tenor" of a specified policy, inserted in a renewal receipt for accident

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insurance, import the policy and all contained therein or thereon, so that the policy and the receipt together constitute the insurance contract. 29 Am J Rev ed Ins § 363.

account. An unsettled demand or claim by one person against another, based upon a transaction or transactions creating a debtor and creditor relation between the parties, which is usually but not necessarily represented by an ex parte record kept by one or both of them. 1 Am J2d Acctg § 1.

The term is less frequently used in designating the action at law to obtain an accounting from the defendant and a judgment against him as for money had and received for whatever sum it appears is owing by the defendant to the plaintiff. 1 Am J2d Acctg § 44. Such action has been superseded in many jurisdictions by other actions, particularly the action in equity for an accounting.

See **accounting; mutual account; open account**.

accountable. Responsible. Liable to be called to account.

See **responsible**.

accountable receipt. A receipt in writing in which the receiptor not only admits receiving the money paid or goods delivered to him, but also acknowledges his undertaking to make payment or delivery thereof, or a part thereof, to a third party.

account acknowledged. See **account stated**.

accountant. One who makes the keeping or examination of accounts his profession or one who is skilled in keeping or adjusting accounts; one competent to design and control the systems of accounts required for records of multifarious transactions of business, trade, and finance. 1 Am 32d Acctg § 1.

See **certified public accountant; public accountant**.

accountant's lien. The statutory lien of a public or certified public accountant on such books and records of his client as he has worked upon, and improved or extended. Anno: 76 ALR2d 1322.

account book. A book in which accounts are kept.

See **book of account; book of original entry**.

account current. Same as **current account**.

account for. To render an account in respect of a specific transaction or transactions; to explain.

accounting. The act or system of making up or stating accounts. *Frazer v Shelton*, 320 Ill 253, 150 N E 696, 43 ALR 1086, 1093. An action, usually on the equity side, to secure an adjustment of complicated accounts. 1 Am J2d Acctg § 44. Making amends or restitution.

accounting office. See **general accounting office**.

account number. The social security number of a person which must be used as an identifying number, not only in reference to social security benefits, but in other instances also, such as preparing a tax return.

account of whom it may concern. See **on account of whom it may concern**.

account receivable. An account owing on an open account. 1 Am J2d Acctg § 2.
See **bills receivable**.

account render. The common-law action which served the same purpose as an equity action for an accounting under modern practice. 1 Am J2d Acctg § 44.

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account rendered. A statement of his charges submitted by a creditor to his debtor.

account sales. An account rendered by a factor or broker to his constituent, listing the goods sold with the prices secured and the net yield.

account stated. All agreement concerning prior transactions between the parties with respect to the correctness of the separate items composing the account and the balance, if any, in favor of one or the other of the parties. 1 Am J2d Acctg § 21. An agreement between persons who have had previous transactions of a monetary character, fixing the amount due in respect to such transactions and promising payment. *State ex rel. Kaser v Leonard*, 164 Or 587, 102 P2d 197, 129 ALR 1125.

accouple. To tie or join; to unite by marriage.

accredit. To receive an envoy of a foreign country and acknowledge his authority as such; to give credentials to an envoy. To recognize as worthy of merit or rank, as to accredit a college.

accredulitare. To clear a person of an accusation of crime by an oath.

accreseere. To grow.

accretion. The increase of riparian land by the gradual deposit by water of solid material, whether mud, sand, or sediment, so as to cause that to become dry land which was before covered by water. 56 Am J1st Wat §476. Accumulation. Growth in size. Increment and addition. 15 Am J2d Chat Mtg § 68.

The meaning of the term as used in relation to shares of stock not being clearly defined in the law as comprehending either income or principal or both, may be resolved differently under varying circumstances and actual situations. *Re Ferguson*, 354 Pa 367, 47 A2d 245, 165 ALR 772.

accroach. An obsolete term for encroach particularly encroaching upon the authority of another. See 4 Bl Comm 75.

accrual. That which accrues; something growing or developing to be added or attached to something else, as interest to principal.

See **clause of accrual.**

accrual basis. A term characterizing the keeping of records and the reporting of income for taxation according to the time of the accrual of the right, to receive, rather than the actual receipt of, an item or amount. *Enright's Estate v Commissioner* (CA 3) 112 F2d 919.

But "accruing" within a specified period may be construed to mean received during the period for income tax purposes. *Maryland Casualty Co. v United States*, 251 US 342, 64 L Ed 297, 40 S Ct 155.

accrual of cause of action. The event whereby a cause of action becomes complete so that the aggrieved party can begin and maintain his cause of action.

A cause may accrue at the moment of the wrong, default, or delict by the defendant and the injury to the plaintiff, although the actual damage resulting therefrom may not be discovered until some time afterward, if the injury, however slight, is complete at the time of the act. *Eising v Andrews*, 66 Court 58, 1 Am J2d Actions § 88. As a general proposition, a cause of action accrues the moment it comes into existence. 34 Am J1st Lim Ac § 113.

accrue. To develop and be added to something else, as interest to principal. *Johnson v Humboldt Ins. Co.* 91 Ill 92. To become complete by development.

See **accrual of cause of action.**

accrued and unpaid taxes. Taxes assessed but unpaid, including those not payable until a later date. *Cochran v Commonwealth*, 241 Ky 656, 44 SW2d 603, 78 ALR 710.

accrued dividend. A dividend which became due and has either been paid or not paid. 19 Am J2d Corp § 809.

accrued water rights. Rights in waters which have vested prior to the adoption of enactment of a constitutional or statutory provision affecting the right of appropriation. 56 Am J1st Wat § 295.

accruer. Accrual; the fact of accruing.

acct. Abbreviation of account.

acct. curt. An abbreviation of account current, which is the same as **current account.**

accumulate. See **accrue; accumulation.**

accumulated surplus. See **surplus.**

accumulation. Increase by growth or addition. Rents and profits accumulating under directions in deed or will, such as prompted the enactment of statutes like the Thellusson Act. 41 Am J1st Perp § 44.

As the word appears in a community property statute which provides that the earnings and "accumulations" of the wife, while she is living separate from her husband, shall be her separate property, it means any property acquired and retained by her without regard to the means by which it was obtained. 15 Am J2d Community Prop § 37.

"When an executor or other trustee masses the rents, dividends, or other income which he receives, treats it as capital, invests it, makes new capital of the income therefrom, invests that, and so oil, he is said to accumulate the fund, and the capital and accrued income procured constitute accumulations." See *Webb v Webb*, 340 Ill 407, 172 NE 730, 71 ALR 404.

See **accretion; cumulative; rule against accumulations.**

accumulative. See **cumulative.**

accumulative dividends. See **cumulative dividends.**

accumulative judgment. See **cumulative judgment.**

accumulative sentences. See **consecutive sentences.**

accuracy. Freedom from mistake or error. *Globe Indemnity Co. v. Cohen* (CA3 Pa) 106 F2d 687.

accurately. With accuracy.

accusare nemo se debet, nisi coram Deo. No one is bound to accuse himself, unless before God.

accusation. A declaration or statement that another person is guilty of some offense or misconduct. A formal charge of the commission of a crime, such as a complaint, information, or affidavit. Informing accused of nature and contents of charge. 21 Am J2d Crim L § 324.

accusatio suspecti tutoris. A Roman law proceeding for the removal of a suspected guardian, which anyone might institute, although it was the duty of his fellow guardian to do so.

accusator post rationabile tempus non est audiendus, nisi se bene de omissione excusaverit. After the lapse of a reasonable time, an accuser should not be heard, unless he shall have well explained his delay.

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accuse. To charge a person with the commission of an offense; it may be informal, as in a conversation, or formal, as where it is by way of an indictment, information, or complaint whereby a prosecution is started.

accused. A person charged with having committed a crime or misdemeanor: a defendant in a criminal proceeding. The word is held to be inapplicable to a defendant in a civil action. *Castle v Houston*, 19 Kan 417.

accuser. A person who makes a formal charge of crime against another before a magistrate or judge.

accustomed. By habit or established course of conduct.
See **customary.**

accustomed rent. See **customary rent.**

acephalous. Without leadership.

acequia. A ditch.

ac etiam. Literally, "and also," but its legal significance appears in the old practice in England of adding a fictitious cause of action to enable the court to take jurisdiction, that is, the adding of a count in trespass to one for debt, where the jurisdiction of the court was limited to civil injuries by force. The fictitious cause gave jurisdiction; the real cause for debt authorized an arrest. See 2 Bl Comm 288.

achat or achate. A purchase; a bargain; a contract.

acherset. An old English corn measure, probably equivalent to about eight bushels.

acia. Same as **atia**.

acknowledge. To admit; to confirm to concede; to recognize; to authenticate a signature under oath. *Blythe v Ayres*, 96 Cal 532, 31 P 916.

acknowledged to me. The equivalent of acknowledged before me. 1 Am J2d Ack § 73.

acknowledgment. An admission, confirmation, concession, or recognition of the existence of a fact. An authentication of an instrument or writing by a declaration or statement under oath by the person whose name appears as a signer that he executed the instrument or writing; also the certificate of the officer who administered the oath under which such declaration or statement was made. 1 Am J2d Ack § 1.

An instrument is acknowledged when an acknowledgment of it is made to the proper officer in the manner and under the circumstances prescribed by law. *Hayden v Moffat*, 74 Tex 647.

See **conditional acknowledgment**, *infra*.

Acknowledgment Act. One of the Uniform Laws.

acknowledgment money. Money paid to the new lord by a copyhold tenant, on the death of the old lord.

acknowledgment of child born out of wedlock. See **acknowledgment of paternity**.

acknowledgment of debt. Any remark by a debtor to the creditor, by which the former clearly admits the debt and expressly or by clear implication shows an intention to pay it. 34 Am J1st Lim Ac § 297.

acknowledgment of paternity. The recognition by admission, confirmation, or concession of the putative father that the child is his, 10 Am J2d Bast § 29.

acknowledgment of will. Sometimes a formal authentication by the testator under oath, although such is required only by force of special statutory provisions; usually, all informal recognition by the testator to attesting witnesses who did not see him sign the instrument, that the signature is his. 57 Am J1st Wills § 298.

a coelo usque ad centrum. From the sky to the center of the earth.

acolyte. A person, usually an adolescent, who assists in a commonplace way in a religious service, as by carrying the wine and bread for communion.

See **altar boy**.

a communi observantia non est recedendum. From common usage there should be no departure.

a consihis. Of counsel.

acquaintance. A person whom one has met often enough of under such circumstances to acquire at least a fair degree of knowledge concerning him.

A mere introduction does not make one an acquaintance. *Wyllis v. Hann*, 47 Iowa 614, 621.

acquainted. Familiarly known; as, acquainted, with the contents of an instrument or with a person. *Chauvin v Wagner*, 18 Mo 531, 544.

acquest. A civil law term for property acquired by purchase.

acquets. (Civil law.) Property acquired during matrimony by either husband or wife, otherwise than by succession.

acquets and conquets. The property jointly or severally acquired by husband and wife by industry or good fortune. With respect to such property the French law is the same as the Spanish, except that the personal property, only, possessed by the parties at the time of marriage, enters into the partnership, as also acquets and conquets acquired during coverture, whether real or personal. But real property, held by either party at the time of the marriage, continues to be held separately, unless the contrary is stipulated. The result of this community or partnership, both at the Spanish and French law is this: that on the dissolution of the partnership, the surviving party and the representative of the deceased each take back what was brought on his or her side into the partnership, and what remains, being considered as gains or profits, is equally divided as between partners. See *Picotte v Cooley*, 10 Mo 312, 318.

acquiesce. To consent quietly. To consent without enthusiasm, even without approval. *Scott v Jackson*, 89 Cal 258, 26 P 898.

acquiescence. A tacit approval or at least an indication of lack of disapproval. Acceptance, perhaps without approval, as acquiescence in a decision. *Stockstrom v Commissioner*, 88 App DC 286, 190 F2d 283, 30 ALR2d 443, disapproved on the grounds in *Automobile Club of Michigan v Commissioner*, 353 US 180, 1 L Ed 2d 746, 77 S Ct 707. Conduct from which may be inferred assent with a consequent estoppel or quasi estoppel. *Uccello v Gold'n Foods*, 325 Mass 319, 90 NE2d 530, 16 ALR2d 459. The position of one who knows that he is entitled to impeach a transaction or to enforce a right and who neglects to do so for such a length of time that under the circumstances of the case the other party may fairly infer that he has waived or abandoned his fight. *Scott v Jackson*,

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89 Cal 258, 26 P 899, quoting *Rapalje* and *Lawrence's Law Dictionary*. See also, *Lux v Haggin*, 69 Cal 255, 10 P 674.

acquiescence for detection. The lending of either active or passive assistance to a person engaged in the commission of criminal offense, either as a feigned accomplice or otherwise, for the purpose of detecting and apprehending him.

The distinction between acquiescence for detection and entrapment which is a defense to a criminal prosecution is that between merely testing a suspect by giving him opportunity to commit the offense and actually inducing him to commit a violation of law which otherwise he would not have committed. 21 Am J2d Crim L § 143.

acquiescence in custom. Essential of a custom binding upon the parties to a contract. A peaceable, unprotesting, and fairly uniform assent to a custom by those whose rights would naturally be affected by it, for such a length of time that it is safe to say that the custom must have entered into the minds of the parties at the time of their negotiations or transactions and therefore formed a part thereof, if nothing was said to the contrary. 21 Am J2d Cust § 8.

acquietandis plegiis. A writ by which a surety could compel a creditor to release him when the debt of the principal had been paid.

acquietantia. Acquittance; discharge.

acquietare. To acquit; to pay.

acquietatus. Acquitted.

acquire. To become the owner of property; to make property one's own. *Wulzen v Board of Supervisors*. 101 Cal 15, 35 11 353. To make property one's own for the purpose of using it, as in taking it under a lease. *State ex rel. Cole v District Court*, 79 Mont 1, 254 P 863.

acquired. Having purchased or otherwise obtained title, ownership, or possession, including, in the absence of a statutory restriction upon the meaning, a taking by descent, 3 Am J2d Aliens § 31. Having obtained possession under a lease. *State ex rel. Cole v District Court*, 79 Mont 1, 254 11 863.

The status of property as separate or community property is fixed as of the time when it is "acquired," the word contemplating the inception of the title and not its subsequent perfection. 15 Am J2d Community Prop § 22.

In a statute providing that all property acquired after marriage by either husband or wife, with specified exceptions, shall be community property, the word "acquired" was not used in an all-comprehensive sense, but in a more restricted sense embracing wages, salaries, earnings, or other property acquired through the toil, talent, or other productive faculty of either spouse, and did not include compensation for injuries to the person arising from violation of right of personal security. *Nelson v American Employers' Ins. Co.* 258 Wis 252, 45 NW2d 681, 22 ALR2d 1244.

acquired allegiance. The allegiance of a naturalized alien.

acquisitio hereditatis. (Roman Law.) The acquisition or vesting of an inheritance.

acquisition. That which is purchased or otherwise brought into one's ownership, literally that which is acquired.

See **acquired**.

acquisition by conquest. See **conquest**.

acquisition by discovery and occupation. See **discovery and occupation**.

acquisitiones civiles. The modes of the acquisition of property which were recognized by the Roman Law.

acquisitiones naturales. (Civil Law.) The modes of the acquisition of ownership of property which were peculiar to the *jus gentium*.

acquit. Judicially to set free or discharge from an accusation of guilt of a crime or even a civil liability. *Dolloway v Turrill* (NY) 26 Wend 383, 400.

acquittal. A verdict of not guilty. 21 Am J2d Crim L § 525. Not a matter of formal judgment, where the record in the case against the defendant ends with the verdict of acquittal. *Arnold v State*, 76 Wyo 445, 306 P2d 368, 65 ALR2d 839.

Ordinarily, in criminal jurisprudence, the word means a discharge after a trial, or an attempt to have one, upon its merits; but under statutes it may refer to a discharge for other reasons. *Junction City v Keefe*, 40 Kan 275, 19 P 735. Where a *nolle prosequi* is entered and a defendant discharged, he is acquitted of the criminal prosecution. *Board of Commissioners v Johnson*, 31 Ind 463, 466.

In the broad sense of the term, "acquittal" includes a discharge from civil liability.

See **acquit**.

acquittance. A release; a receipt.

While the word is not strictly synonymous with the word receipt, it includes receipt. A receipt is one form of acquittance; a discharge is another form. A receipt in full is an acquittance. It has been held that a receipt for part of a demand or obligation is an acquittance pro tanto, but the authorities are not unanimous on this point. *State v Shelters*, 51 Vt 102.

acquittance pro tanto. See **acquittance**.

acre. A measure of land equal to 160 square rods, or 4,840 square yards, or 43,560 square feet.

acreage. The number of acres in a tract of land. A stated number of acres constituting the subject matter of a conveyance. A term occasionally used to denote a relatively small area near a city or village.

acre-dale. A field composed of parts which are each owned by different persons.

acrefight. A duel.

acre-foot. The volume of water covering an acre to a depth of one foot.

acre right. A share in the common lands of a town.

acre-shot. A local tax on land.

acromion. Pertaining to the shoulder blade.

across. Laterally; from side to side.

ac si. As if.

act. Verb: To perform; to fulfill a function, to put forth energy; to move, as opposed to remaining at rest; to carry into effect a determination of the will. *Holt v Middlebrook* (CA4 Va) 214 F2d 187, 52 ALR2d 1043. To simulate: to perform on stage, screen or television.

Noun: A thing done or established; a part of a

play or musical comedy; a deed or other written instrument evidencing a contract or an obligation. A statute; a bill which has been enacted by the legislature into a law, as distinguished from a bill which is in the form of a law presented to the legislature for enactment. Anne: 5 ALR 1422.

See **statute** and also various acts under the distinguishing or popular name, such as **Safety Appliance Act; betterment acts; curative acts; occupying claimant acts.**

acta. The minutes of court proceedings; the recorded proceedings of a legislative assembly.

acta diurna. Done on this day; daily records of transactions.

Acta Martyrum. Accounts of the early Christian martyrs taken from court registers or reports of witnesses, or prepared by ecclesiastical notaries.

acta publica. Matters of public concern.

Acta Sanctorum. Accounts of the Christian saints and martyrs, published by Jesuits.

act colore officii. An act done under the color of an office rather than under authority inherent in the office.

acting. Adjective: Performing as opposed to remaining inert. Substituting or taking the place of another officer temporarily, for example, an acting judge or acting treasurer. Participle: See **act.**

acting as agent. An allegation in pleading generally sufficient in attributing a contract made by an agent to his principal. 3 Am J2d Ag § 344.

acting within the scope of his office or employment.

Acting with authority so as to bind a principal. Acting in line of duty as a member of the Armed Forces. Anno: 1 ALR2d 226.

act in pais. An act performed out of court.

Actio. (Roman law.) A right of action by which a person who has acquired a right may prosecute and enforce it by process of law, if it is contested. See Mackeldey's Roman Law, § 17.

actio ad exhibendum. An action of Roman law origin to compel the defendant to produce personalty or evidence of title to real estate in his control.

actio adjecticiae qualitatis. A civil law action on a contract made for plaintiff by his agent.

actio ad supplendam legitimam. A civil law action brought by a person claiming a statutory share of a decedent's estate to compel the beneficiaries under the will to contribute to furnish his statutory share.

actio aedilicia. A civil law action on an implied warranty of quality.

actio arbitraria. A Roman law action in which the judex was permitted to order payment of money or to order restitution in kind, taking all the circumstances of the case into consideration.

actio auctoritatis. A civil law action for breach of warranty wherein the vendee was permitted to recover twice the amount of the purchase price.

actio bonae fidei. (Civil law.) An action in good faith; an action in which the judge was authorized to take cognizance of equitable considerations in rendering his decision.

actio calumniae. Action for or to restrain a malicious prosecution. (Civil law.)

actio certae creditae pecuniae. A Roman law action for the recovery of a certain fixed sum of money.

actio civilis. An action based upon the civil law; also a civil as distinguished from a criminal prosecution.

actio commodati contraria. (Civil law.) An action by a borrower against a lender to enforce their contract.

actio commodati directa. Civil law action by lender against borrower for reimbursement.

actio communi dividendo. A civil law action seeking the division of common property.

actio condictio indebitati. A civil law action to recover a payment made under mistake.

actio confessoria. A civil law action wherein the plaintiff sought to establish his right to a servitude as against the owner of the land or any other adverse claimant, and also to compel acknowledgment of his right.

actio contrario. Literally, an action in the opposite direction; a cross action.

actio criminalis. Criminal action; an action at law based upon a wrong of the defendant which constitutes an offense under the criminal law.

actio damni injuria. Civil law action for tort.

actio de dolo. A civil law action for deceit.

actio de eo quod certo loco. A civil law action to enforce an obligation which by its terms is to be met by the defendant at a certain place.

actio de pauperie. A civil law action for damage done by an animal.

actio de peculio. A civil law action involving the private property of a son or a slave.

actio de pecunia constituta. A civil law action on a promise to pay one's own pre-existing debt or that of another. The action would lie even in the absence of a formal engagement to pay.

actio depositi contraria. A civil law action by a depositary against a depositor to enforce their contract.

actio depositi directa. A civil law action by a depositor to recover the subject of the bailment from the depositary.

actio de posito vel suspensio. A praetorian action under Roman Law against one who had endangered a public way by suspending or placing something over it.

actio de recepto. A civil law action against a shipowner, innkeeper, or stablekeeper for the loss of a traveler's goods.

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actio de statu defuncti A civil law action to determine the testamentary capacity of a decedent.

actio de tigno juncto. Civil law action to recover for material incorporated by another into his building.

actio directa. A direct action that is, an action against the person who transacted the business, whether an agent or representative; an action, the form of which is prescribed.

actio emti. A civil law action by the vendee against the vendor to recover the thing sold upon payment of the price.

actio ex conducto. A civil law action by a bailor against a bailee to recover goods hired.

actio ex contractu. A civil law action founded upon a contract.

actio ex delicto. A civil law action founded upon a tort.

actio exercitoria. A civil law action against a shipowner on a contract for freightage made by the owner's slave as captain of the ship.

actio ex interdicto. An action commenced as an ordinary civil law action, but prosecuted under "procedure extra ordinem."

actio ex locatio. Civil law action against a bailee for hire.

actio ex stipulatu. A civil law action founded upon a stipulation, which was a solemn, formal promise.

actio familiae erciscundae. A civil law action to effect the division of a common inheritance.

actio famosa. A civil law action wherein the judgment carried disgrace or infamy to the defendant.

actio ficticia. (Civil law.) A fictitious action in which the judgment was based upon assumptions of non existing facts.

actio fiduciae. A civil law action by a debtor against his creditor to recover compensation for the latter's failure to return the security after the debt had been paid. No action lay for the recovery of the pledged property.

actio finium regundorum. A civil law suit for the partition of real property.

actio furti. A civil law action to recover a penalty for stealing goods; that is, four times the value if the thief was caught in the act; otherwise twice the value.

actio honorarium. A Roman action based on the jus honorarium, that is, the praetorian law, the law made by the Roman officers, and not the civil law, which was the law made by the people.

actio in bonum et aequum concepta. A praetorian action in which the praetor directed the judge to decide according to what he conceived to be fair.

actio in factum. A civil law action similar to an action on the case at common law.

actio in factum praescriptis verbis. A civil law action in which the plaintiff demanded performance by the defendant by reason of having fully performed his own part of the contract.

actio injuriarum. A personal, penal civil law action which lay for any vexatious violation of the rights of another person.

actio in personam. A personal action under the civil law.

actio in rem. A civil law action against a thing; an action for the recovery of a thing or the establishment of a right to or in a thing independent of contract.

actio in rem hypothecaria. A praetorian action under the Roman Law whereby a creditor, with whom a debtor had agreed that certain chattels should be security for the debt, could obtain possession of the chattels.

actio institoria. A civil law action against a master on a contract made by his slave, acting as his business manager.

actio interrogatoria. (Roman law.) An action by which the defendant was obliged to make answer under oath to questions propounded. See I Pomeroy's Equity Jurisprudence, § 192.

actio iudicati. A civil law action to determine whether a judgment had been rendered.

actio legati. A civil law action by a legatee to enforce an obligation against the person charged by the legacy with the obligation.

actio locati. A civil law action for damages by the bailor under a bailment for hire against the bailee.

actio mandati. (Civil law.) An action by a person to whom another (the mandatory) has promised to execute a commission (mandate) for damages caused by the mandatory's negligence.

actio metus. Same as **actio quod metus causa.**

actio mixta. A mixed action under the civil law in the sense that the relief sought is both penal and reparatory.

actio mixtae persecutendae causa comparata. A mixed action under the civil law for the recovery of a penalty and also for the recovery of compensation.

action. A judicial proceeding, either in law or in equity, to obtain relief at the hands of a court. A judicial remedy for the enforcement or protection of a right, or a legal proceeding in which a plaintiff claims against a defendant or fund the enforcement of some obligation toward the plaintiff which is binding upon the defendant or the fund. A prosecution in a court by one party against another party for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense, without regard to the particular form of the procedure. 1 Am J2d Actions § 4.

The term is inclusive of cause of action or right of action, as well as a pending action, in a statute providing for the survival of an action. 1 Am J2d, Abat & R § 1.

In several jurisdictions, for example, New York, an action, which is commenced by the service of

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summons, is distinct under statute from a proceeding which is commenced by petition and notice. In some jurisdictions it is expressly provided by statute that the word "action," as used in the statute of limitations, shall include a special proceeding of a civil nature. 34 Am J1st Lim Ac § 112.

A distinction has been drawn between the word "action," as importing the right or power to enforce an obligation, and the word "suit" which imports the pursuit of the remedy by which the right is enforced. 1 Am J2d Actions § 4.

The word "action" standing alone might reasonably be held not to include a criminal prosecution, but when the word "proceeding" is added, a combination is presented which is well near inclusive of all forms of litigation. *United States v P. F. Collier & Son Corp.* (CA7 Ind) 208 F2d 936, 40 ALR2d 1389.

The view has been taken that where the reference in a statute concerning corporate existence following dissolution is for the purpose of permitting "suits" or "actions" to be instituted or maintained against the dissolved corporation, such words are to be construed as applying only to civil litigation and not to criminal prosecutions. Anno: 40 ALR2d 1397.

In French, the term "action" includes a share of stock in a corporation or joint stock company and the certificate representing the ownership thereof.

Actionable. Remediable by an action at law or a suit in equity.

actionable defamation. See **actionable per quod; actionable per se; libel; slander.**

actionable negligence. See **negligence.**

actionable per quod. Words or epithets spoken of or concerning the plaintiff which are not so defamatory in a legal aspect that damage will be presumed from their utterance or publication, so that an action will not lie upon the words in the absence of pleading and proof of special damage. 33 Am J1st L & S § 5.

actionable per se. Words actionable as defamatory, without allegation and proof of special damage, because their character as injurious to reputation is a matter of common knowledge. 33 Am J1st L & S § 5.

According to some authorities, written or printed words may be actionable per se where, if merely spoken or uttered, they would not be actionable in the absence of pleading and proof of special damages. 33 Am J1st L&S §6.

See **negligence per se.**

actionable wrong. One for which an action will lie.

As to particular wrongs for which an action will lie, see specific terms, such as **negligence; nuisance;** etc.

actionably. In a manner which may render a person liable to be sued.

action against the state. An action which, because of the immunity of a state from suit under the 11th Amendment to the Constitution of the United States and established principles of jurisprudence, can be had only with the consent of the state. 49 Am J1st States § 91.

A suit to restrain state officers from taking steps by means of a judicial proceeding in execution of a state statute to which they do not hold any special relation, is a suit against the state within the meaning of the prohibition of the 11th Amendment. *State v Southern Railway Co.* 145 NC 495, 59 SE 570.

action against the United States. An action which can be maintained only with the consent of the United States clearly given by an Act of Congress and subject to such restrictions as Congress may impose. *Jones v Tower Production Co.* (CA10 Okla) 120 F2d 779 (holding an action to remove a federal tax lien to be an action against the United States.)

actional. Pertaining to actions.

actionare. To sue; to prosecute.

action at common law. An action for the determination of legal, as distinguished from equitable, rights. 34 Am J1st Lim Ac § 58. An action governed by the common law rather than the civil or continental law.

action at law. An action prosecuted in a law court, as distinguished from a suit in equity. An action, the purpose of which is the recovery of a sum of money or damages, or an action wherein the only relief obtainable or appropriate is a money judgment for damages. *Royal Indent. Co. v Sangor*, 166 Wis 148, 164 NW 821, 9 ALR 397.

Notwithstanding the abolition of the distinction between actions at law and suits in equity, it is still important to determine whether the case is at law or in equity. The method of review, the right to a jury trial, etc. may depend upon whether the case is to be regarded as at law or in equity. 1 Am J2d Actions § 7.

action brought. An action commenced. *Goldenberg v Murphy*, 108 US 162, 27 L Ed 686. 2 S Ct 388; Anno: 27 ALR2d 236, 253. A pending action; the status of an action wherein the defendant is subject to judicial orders tendered in the cause. 32 Am J2d Fed Prac § 424.

actio negatoria. A civil law action by a property owner against one who has disturbed his possession, to compel him to pay damages and to discontinue the disturbance.

actio negotiorum gestorum. A civil law action against one who has transacted business for the plaintiff in his absence or without his authority.

actionem constituere. To bring an action; to sue.

actionem instituere. To bring an action; to sue.

action en declaration d'hypothèque. An action by a creditor to subject real property in possession of a third party to a lien held by the plaintiff.

action en interruption. An action brought to stop the running of the statute of limitations against the plaintiff's claim.

action ex contractu. An action based upon a contract. 1 Am J2d Actions § 8.

action ex delicto. An action arising out of the violation of a duty or obligation created by positive law independent of contract. 1 Am J2d Actions § 8.

There may be a duty imposed by law by the relation of the parties, although the relation was created by contract, and when this is so, a neglect to perform this duty gives the injured person a right of action, and he may elect to sue upon the contract, or treat the wrong as a tort, and bring an action

ex delicto. For example, a common carrier who wrongfully ejects a passenger who has paid his fare from a train commits a tortious act, although the relation of the parties had its origin in contract, and an action ex delicto may be maintained. 38 Am J1st Negl § 20.

action for conspiracy. See **conspiracy**.

action for death. See **wrongful death**.

action for determination of adverse claims. See **determination of adverse claims**.

action for divorce. See **divorce**.

action for mesne profits. See **mesne profits**.

action for partition. A suit in equity, the object of which is to enable those who own property as joint tenants, tenants in common, or coparceners to put an end to such tenancy so as to vest in each tenant a sole estate in specific property or a share of the proceeds of sale of the entire tract. 40 Am J1st Partit § 2.

action for restitution. See **restitution**.

action for separate maintenance. See **separate maintenance**.

action in equity. Same as **suit in equity**. 27 Am J2d Eq § 177.

action in personam. See **in personam**.

action in rem. See **in rem**.

actionize. Same as **actionary**.

Actionnaire. A stockholder under French law.

action negatoire. An action by the owner of real property to establish the nonexistence of an easement or servitude on the property.

actionner. (French) To bring an action.

action not otherwise provided for. Air omnibus provision intended to extend the application of a statute such as a statute of limitations. 34 Am J1st Lim Ac § 70.

action of a local nature. An action in the federal court the subject matter of which, as appears from the allegations of the complaint, bill, or declaration, is situated wholly within the district in which the suit is brought. *East Tennessee, Virginia & Georgia Railroad Co. v Atlanta & Florida Railroad Co.* (CC Ga) 49 F 608.

action of assize. See **assize**.

action of book account or book debt. See **book debt**.

action of covenant. See **covenant**.

action of debt. See **debt**.

action of forcible entry. See **forcible entry and detainer**.

action of trespass. See **trespass**.

actio nominata. An action with a name, as distinguished from an action on the case.

actio non. A statement in a special plea that the plaintiff has no action.

Actio non accrevit infra sex annos. The plea that the action has not accrued within six years.

Actio non datur non damnificato. No action is given to a person who is not injured.

action on the case. See **trespass on the case**.

Actio non ulterius. A plea addressed to the further maintenance of the action.

actio noxalis. A civil law action to recover for an injury sustained from the act of the child, wife, or slave of the defendant.

action pending. The status of an action between the time of the commencement thereof and its final determination by a judgment.

An action is no longer pending after a judgment of dismissal has been made and entered, although third parties, who had secured an ex parte order permitting them to intervene, are about to do so. *Minshull v McDougal*, 143 Wash 599, 255 P. 655.

See **plea of another action pending**.

action populaire. An action brought in the public interest.

action quasi in rem. See **quasi in rem action**.

action sur le case. Same as **action on the case**.

See **trespass on the case**.

action to quiet title. See **quieting title**.

actio perpetua. A civil law action as to which there is no limitation period.

actio personalis. A personal action.

Actio personalis moritur cum persona. A personal action dies with the person. 1 Am J2d, Abat & R § 51.

Such principle of the common law is in modern times of little more than historical interest, since it has been abrogated by statute in most, if not all, American jurisdictions. 1 Am J2d Abat & R § 47.

See **survival acts**.

Actio personalis quae oritur ex delicto moritur cum persona. A personal action which arises out of a tort dies with the person.

actio pignoratitia. A civil law action founded upon a pledge.

actio poenalis. A civil law action brought by the injured party for the recovery of a penalty.

actio poena persequendae causa comparata. A civil law action for the recovery of a penalty; a penal action.

actio popularis. A civil law action by the people or any one of the people to recover a penalty.

actio praejudicialis. A suit under the civil law preliminary to the principal action.

actio praescriptis verbis. A civil law action founded upon usage or precedent.

actio praetoria. An action under the Roman law brought by the praetor.

actio pro socio. A civil law action by one partner against another to compel performance of the agreement of partnership.

actio protutela. A civil law action against one who had acted as a guardian when he was not one, or who was really a guardian and acted as one without knowing it.

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actio Publiciana. A Roman-law action granted by the praetor to the possessor of lost property for the protection of his rights,

actio Publiciana confessoria in rem. A civil law action for the protection of servitudes not fully perfected.

actio Publiciana negatoria. A civil law action for the disturbance of one's possession.

actio quanti minoris. A civil law action by the vendee on an implied warranty of quality wherein he claimed a reduction in the price corresponding with the lower value caused by the defect.

active cause. That which produces an effect or result by active means; the efficient or proximate cause. 38 Am J1st Negl § 50.

actio quasi institoria. A civil law action which would lie in every case where, if the representative were a free person, the *actio quod jussu* would lie.

actio quod jusso. A civil law action by the creditor against the master on a contract made by a slave by the authority of the master.

actio quod metus causa. An action allowed by the Roman praetor whereby one might recover property with which he had parted under fear arising out of threats.

actio rationibus distrahendis. A civil law action by a ward against his guardian for converting property of the ward to his own use. The ward could recover both damages and a penalty.

actio redhibitoria. A civil law action by the vendee to rescind a sale.

actio rerum amotarum. A special compensatory action granted by the injured party if either spouse stole from the other on the eve of a divorce.

actio rescissoria. A civil law action to recover property lost by prescription.

actio re uxoriae. A civil law action on the dissolution of a marriage for the restoration of the dowry given to the couple at the time of their marriage.

actio serviana. A civil law action in rem whereby the locator of a rural estate sued a farmer to recover the property of the farmer which had been pledged to secure payment of the rent.

actio stricti juris. A civil law action in which the court followed the letter of the law.

actio temporalis. A Roman law action in respect to which the praetor had limited the time within which it could be brought.

actio tutelae. A civil law action of a ward against his guardian for failure to use that degree of care in the management of the guardianship which he was accustomed to exercise in the management of his own affairs.

actio utilis. A civil law action brought by the holder of the legal title in behalf of the person beneficially entitled.

actio venditi. A civil law action for the enforcement of a contract of sale.

actio vi bonorum raptorum. A civil law action for injury done by means of a robbery.

actio vindictam spirans. A civil law action brought by the plaintiff to secure personal satisfaction.

actio vulgaris. A Roman law term for a common action.

active bond. A bond which bears interest from its date at a fixed rate.

active cause. That which produces an effect or result by active means; the efficient or proximate cause. 38 Am J1st Negl § 50.

active commerce. Commerce carried on in ships of the country's own register and not in ships of other countries.

active concealment. Conduct whereby concealment is effected by misleading and deceptive talk, acts, or conduct.

Active concealment produces the same result in law as positive misrepresentation. 23 Am J2d Fraud § 93.

active member. One who takes part in a movement by lending his aid, supporting it by activities in its behalf. *Scales v United States*, 367 US 203, 6 L Ed 2d 782, 81 S Ct 1469.

active militia. An organization of armed men from the body of the militia, engaging at stated periods in military drill or other military exercises, returning to their usual vocations after such drilling and exercising, but subject to call when public exigencies demand their services. 36 Am J1st Mil § 42.

active negligence. Want of care in performing an act, as distinguished from inaction which in a proper case may be negligence, 38 Am J1st Negl § 3.

active progress, A redundancy, but nevertheless found in certain statutes.

A labor dispute in a seasonal industry may permissibly be deemed in "active progress" subsequently to the reaching of a dead line fixed for negotiating a collective bargaining agreement for the ensuing season, within the meaning of a provision of the Alaska Unemployment Compensation Act, where conferences between the union and employees continued after such date. Unemployment Com. v Aragon, 329 US 143, 91 L Ed 136, 67 S Ct 245.

active receivership. A receivership in which the receiver is charged with the duty of running a business or industry. 44 Am J1st Rec § 3.

active service. One in the Armed Forces who faces the enemy at the front and also one serving as a soldier, sailor, or airman in garrison, military camp, fort, or cantonment in support of forces at the front or in the performance of duty, even in time of peace. Anno: 4 ALR 850. Service in the Armed Forces, not necessarily in combat or in the movement of troops preparatory to an engagement. 57 Am J1st Wills § 663.

The distinguishing feature of active service is not exposure to the assaults of the enemy; it is service by one called to perform duty in contrast to readiness to serve or training for duty prior to the time that one is called from civilian life or from the reserve. 29A Am J Rev ed Ins § 1204.

active trust. A trust which maintains the legal estate in the trustee, to enable him to perform the duties devolved on him by the donor, and gives the cestui que trust only a right in equity to enforce the per-

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formance of the trust. 54 Am J1st Trusts § 13. A trust in which active duties are to be performed by the trustee with reference to the administration of the trust property, and in which the primary use of the property is to be expressly or impliedly, by reason of such active duty, vested in the trustee. Holmes v Walter, 118 Wis 409, 95 NW 380.

active use. A use in which active duties were to be performed by the feoffee to uses with reference to the administration of the property conveyed to him. 54 Am J1st Trusts § 11.

activity. A state of movement or performance as contrasted with inertness.

See **concerted activity**.

act malum in se. See **mala in se**.

act malum prohibitum. See **mala prohibita**.

act of adjournal. An order of the Scotch court of judiciary, entered in its minutes; a record of a criminal sentence.

act of bankruptcy. An act for which the person who performed it may be adjudicated a bankrupt, provided timely proceedings for an adjudication are invoked and the person is not within the class of persons excepted from an involuntary adjudication. 9 Am J2d Bankr § 141.

act of commission. A positive act, as distinguished from an omission.

Act of Congress. A statute enacted by Congress. See various federal acts under popular or distinguishing name, such as **Safety Appliance Act; Civil Rights Act**, etc.

act of curatory. Qualifying as a curator or guardian. 25 Am J1st G & W §47.

act of dominion. An act evidencing an assumption of ownership.

act of God. An unusual, extraordinary, sudden, and unexpected manifestation of the forces of nature which man cannot resist. 32 Am J1st L & T § 795. An act beyond the intervention of man, such as a storm, a bolt of lightning, or a tempest. 1 Am J2d Act of God § 2.

An exception to the liability of a tenant from liability for injuries caused by an "act of God" will not include an injury caused by a fire set by human agency, since an act of God refers to some irresistible disaster such as results from natural causes in no sense attributable to human agency. 32 Am J1st L & T § 811.

An extraordinary flood may constitute, and is frequently treated as constituting, an "act of God." Whether it does or does not do so has been held to be a mixed question of law and fact. The defining and limitation of the term are questions of law for the court; but the existence or nonexistence of the facts on which it is predicated is a question for the jury where the evidence is such as to admit of more than one conclusion. 56 Am J1st Wat § 91.

act of grace. A grant of general pardon or amnesty by a new king or queen in honor of some important royal event.
See **grace**.

act of indemnity. A statute in aid of officers who have failed to qualify for their offices.

act of insolvency. An act or omissions of a debtor which justifies the filing of a petition in insolvency against him, such as making a general assignment for the benefit of creditors, failure to procure the dissolution of an attachment of his property, preferential transfers, fraudulent conveyances, etc. 29 Am J Rev ed Insolv § 14.

See **act of bankruptcy**.

act of law. Anything which proceeds by operation of law or under judicial authority.

act of legislature. See **statute**, also various acts under popular or distinguishing name, such as **nonclaim statute; statute of frauds; moratory statute**, etc.

act of oblivion. See **oblivion**.

Act of Parliament. A statute enacted by the Parliament of the United Kingdom.

Act of Settlement. The English statute 12 and 13 Wm. HL, c. 2, "whereby the crown was limited to his present majesty's illustrious house: and some new provisions were added, at the same fortunate era, for better securing our religion, laws, and

liberties; which the statute declares to be 'the birthright of the people of England,' according to the ancient doctrine of the common law." See 1 BI Comm 128.

act of state doctrine. The principle which precludes American courts from inquiring into the validity of the public acts of a recognized foreign sovereign power within its own territory. *Banco Nacional De Cuba v Sabbatino*, 376 US 398, 11 L Ed 2d 804, 84 S Ct 923.

Act of Supremacy. An English statute establishing the supremacy of the king over the church.

Act of Uniformity. A statute establishing uniform services in the Church of England.
See **uniform statutes**.

Act of Union. Often referred to as the Articles of Union, being the agreement, containing twenty-five articles, which in 1707 was entered into between the kingdoms of England and Scotland, whereby these two kingdoms were united into one kingdom by the name of Great Britain. These articles were ratified and confirmed by statute 5 Anne, c. 8. See 1 BI Comm 96.

Action Burnel. An English statute (1285) named from the place where it was passed and providing a procedure for the collection of debts.

act on petition. An English summary proceeding in admiralty cases.

actor. A performer on stage, screen, television, or radio. In the civil law, a plaintiff in an action, also one who acts for another, such as the manager of a business.

Actore non probante reus absolvitur. A defendant is exonerated by the failure of the prosecution to prove its case. Anno: 31 LRA (NS) 1169.

actores fabulae. Fictitious parties. Since common recoveries were themselves fabulous and fictitious proceedings, it was essential that there should be fictitious parties to them. See 2 BI Comm 362.

Actori incumbit onus probandi. Upon the plaintiff lies the burden of proof.

actor in rem suam. One who acts for himself, not through another.

Actor qui contra regulam quid adduxit non est audiendus. An advocate should not be heard who argues contrary to law.

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Actor sequitur forum rei. The plaintiff must invoke jurisdiction in the forum in which the defendant resides or in which the property involved in the litigation is located. *Fisher, Brown, & Co. v Fielding*, 67 Conn 91, 34 A 714.

actrix. The feminine of **actor**.

acts mala in se. See **mala in se**.

acts mala prohibita. See **mala prohibita**.

acts of possession. See **adverse possession.**

acts of preparation. See **preparation.**

acts of sederunt. Certain rules of court made by judges of the Scotch court of session.

Acts of the martyrs. See **Acta Martyrum.**

act through. To act by another who is one's agent.

To "act through" a subordinate, may well be synonymous with "to vest" such subordinate with power to act. See *United States v Chemical Foundation*, 272 US 1, 71 L ed 131, 47 S Ct 1.

actual. Something real, or actually existing, as opposed to something merely possible, presumptive, implied, or constructive. *Steen v Modern Woodmen of America*, 296 111 104, 129 NE 546, 17 ALR 406, 412; *Jones v State*, 144 Miss 52, 109 So 265, 59 ALR 1146.

actual authority. Such authority as a principal intentionally confers upon his agent, or intentionally or by want of ordinary care allows the agent to believe himself to possess. *McIntosh v Dakota Trust Co.*, 52 ND 1021, 204 NW 918, 40 ALR 1021.

Actual authority, if conferred expressly or impliedly, empowers an agent to bind his principal, even in violation of private instructions, where the person dealing with him has no notice of the limitation upon authority. 29 Am J Rev ed Ins § 147.

actual bias. The existence of a state of mind, on the part of a juror, which leads to a just inference in reference to the case that he will not act with entire impartiality.

Literally, it is a leaning of the mind--a prepossession, something more than sympathy which can be set aside. 31 Am J Rev ed J § 172.

actual bona fide resident. See **bona fide resident.**

actual cash value. The price in cash obtainable in a fair market. The fair cash value. *Birmingham Fire Ins. Co. v Pulver*, 126 Ill 329, 18 NE 804.

Cost of reproduction less depreciation, although important evidence of value, is not an exclusive test of "actual cash value" within the meaning of an appraisal clause of an insurance policy. *Schreiber v Pacific Coast Fire Ins. Co.* 195 Md 639, 75 A2d 108, 20 ALR2d 951. Neither market value nor replacement cost is an exclusive test; all facts and circumstances which tend logically to assist in arriving at a correct estimate of actual cash value are to be considered. 29A Am J Rev ed Ins § 1545.

actual change of possession. A real, as distinguished from a scrambling, litigious, or constructive change of possession, is what is comprehended in speaking of part performance sufficient to take a case out of the statute of frauds by a change of possession. 49 Am J1st Stat of F § 439.

actual competition. See **competition**

actual compulsion. Real compulsion, as distinguished from a presumed compulsion because of the relationship between the parties as husband and wife, parent and child, etc.

actual controversy. A justiciable controversy, one that is not merely moot or amounting merely to a difference of opinion, but involving persons adversely interested in matters as to which the determination of the court is sought. 22 Am J2d Dec J § 11.

actual damages. Damages in compensation for the loss or injury suffered rather than those allowed by way of punishment of the defendant or deterring others. 22 Am J2d Damg § 11.

actual delivery. Within the rule as to passing title under a sale, the term means a formal immediate tradition of the property to the vendee. *Bridgham v Hinds*, 120 Me 444, 115 A 197, 21 ALR 1024.

But an actual delivery of an insurance policy may be completed without a manual tradition of the instrument to the insured. Any disposition of the policy by the insurer which evidences an intention to put the policy out of its control and in the control of the applicant is sufficient to amount to a delivery or actual delivery of the policy. 29 Am JRev ed Ins § 216.

See **actual change of possession; delivery.**

actual doubt. A reasonable doubt, a doubt beyond the realm of vague apprehension. Anno: 147 ALR 1046.

actual escape. An escape which takes place when a prisoner gets out of prison or any place in which he may be confined, or from out of the authority in whose custody he is, and unlawfully regains his liberty, free from the authority and control of the power entitled to restrain him. 27 Am J2d Escape § 1.

actual eviction. A physical dispossession of a tenant as distinguished from a constructive eviction. 32 Am J1st L & T § 246.

See **actual ouster.**

actual force. Real force, as distinguished from mere persuasion.

In robbery, the term implies personal violence, but the degree of force is immaterial so long as it is sufficient to compel one to part with his property. It is to be distinguished from constructive force in that it includes all force inflicted directly on the person robbed, while constructive force includes all demonstrations of force, menaces, and means by which the victim is put in fear sufficient to suspend the free exercise of the will, or prevent resistance to the taking. See 46 Am J1st Rob § 15.

actual fraud. Intentional and successful employment of cunning, deception, or artifice to circumvent, cheat, or deceive another. 23 Am J1st Fraud § 4.

actual immunity. See **immunity; self-incrimination.**

actual induction. The reception of a person into the Armed Forces of the United States which makes him a member thereof and responsible for the performance of the duties of a soldier, sailor, marine, etc.

It does not take place, under the Army and Selective Service regulations, until the selectee has taken the oath of induction, and where he refuses to take it, it is not enough that he has been accepted after physical examination, or that the oath was read to him and that he was thereupon informed that he was in the Army, to subject him to a court-martial for disobeying an order. *Billings v Truesdell*, 321 US 542 88 L Ed 917, 64 S Ct 737.

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actual knowledge. Real knowledge as distinguished from presumed knowledge or knowledge imputed to one because of his having had information which should have put him on inquiry that would have led to real knowledge. In some cases, as where it is an element of wrongdoing, the equivalent of guilty knowledge.

Under the generally accepted doctrine that a bank director is not personally liable to a depositor of the bank for damages sustained by reason of the insolvency of the bank, unless the director had actual knowledge of the bank's insolvency, the term "actual knowledge" means a guilty knowledge, not an innocent bona fide ignorance arising from neglect on his part to inquire into the financial condition of the bank. 10 Am J2d Banks § 199.

One insured against loss by "robbery", defined by the policy to include the felonious and forcible taking of insured property . . . by any other overt felonious act committed in his presence and of which he was "actually cognizant," is not thereby covered as to a loss of money which he had in his pocket, and which he discovered to be missing after he returned to his store from the street where two men, in helping him stop a dogfight, had jostled him. *Ashcraft v United States Fidelity & Guaranty Co.* (Ky) 255 SW2d 485, 37 ALR2d 1078.

actual loss. From breach of contract:- the loss of what the promisee would have made if the contract had been performed, less the proper deductions. 22 Am J2d Damg § 47.

Extent of insurer's liability under insurance on property:- the real loss is the measure of indemnity to which the insured is entitled without distinction between a total and partial loss. 29A Am J Rev ed Ins § 1538.

See **actual cash value**.

actually. Really. In fact. *State v Ritschel*, 220 Minn 578, 20 NW2d 673, 168 ALR 274.

actually cognizant. See **actual knowledge**.

actually collected. Actually received in funds. In some connections, the net amount received, that is, an amount received less costs of collection. *Curtin v New York*, 287 NY 166, 39 NE2d 903, 142 ALR 166.

actually paid. Really paid. Paid in cash, not by the giving of a note or other obligation of the debtor. Sometimes construed as "actually payable," as in the case of an insolvent reinsured under a contract of reinsurance. 29A Am J Rev ed Ins § 1756.

actual malice. Real as distinguished from legal or technical malice. 30 Am J Rev ed Interf § 45. Hatred, ill will, or hostility entertained by one person toward another. 34 Am J1st Mal §§ 2, 3.

Although the cases are not entirely in accord, it would appear that the better view is that wantonness may amount to actual malice. *Crane v New York World Tel. Corp.* 308 NY 470, 126 NE2d 753, 52 ALR2d 1169. Compare 34 Am J1st Mal § 3.

actual military service. See **active service**.

actual necessity. The existence of a genuine necessity, the most common use of the term being in reference to a taking of property under the power of eminent domain. See 26 Am J2d Ern D §§ 111 et seq.

actual notice. Express information of a fact, as well as circumstances from which an inference of notice is clearly justified. 39 Am J1st Notice § 4.

"However closely actual notice may in many instances approximate knowledge, there may be actual notice without knowledge." *Dunlap v Gibson*, 83 Kan 757, 112 P 598.

The words do not always mean in law what in metaphysical strictness they import; they more often mean knowledge of facts and circumstances sufficiently pertinent in character to enable reasonably cautious and prudent persons to investigate and ascertain as to the ultimate facts. *Texas Co. v Aycock*, 190 Tenn 16, 227 SW2d 41, 17 ALR2d 322.

See **actual knowledge**.

actual notice in the second degree. An overly-refined expression for implied or constructive notice. *Texas Co. v Aycock*, 190 Tenn 16, 227 SW2d 41, 17 ALR2d 322.

actual occupation. Making use of, or living upon, premises either personally or through a tenant. *Cox v Richerson*, 186 Miss 576, 191 So 99, 124 ALR 1138.

See **actual possession**.

actual occupation test. A test to determine whether there has been a change of occupation of the insured under a policy of life insurance so as to diminish the recovery under the policy in accordance with a provision in the policy. 29 Am 1 Rev ed Ins § 769.

actual ouster. The actual expulsion of a tenant from the demised premises.

If a lessee, to avoid actual expulsion, yields possession and attorns in good faith to one having a title paramount to that of his landlord, and a right to immediate possession, it is equivalent to an actual ouster, since the tenant is not bound to hold unlawfully and subject himself to an action, and is not under any duty to resist such an entry. See 32 Am J1st L & T § 111.

See **actual eviction**.

actual pecuniary injury. An injury, the result of which can be actually measured in money. *Drury v Franke*, 247 Ky 758, 57 SW2d 969, 88 ALR 917.

actual possession. Substantial possession, possession in fact, sometimes referred to as by the foot or pedis possession. The term is also used by some authorities in referring to the possession of one part of a larger tract by possession in fact of the other part, where the occupant claims the whole as of right and there is substantial evidence of the boundaries of the entire larger tract, although other authorities refer to this type of possession by actual occupancy of another part as constructive possession. 42 Am J1st Prop § 42.

Actual possession is an essential of adverse possession. As such it means possession in fact, effected by actual entry upon the premises, and actual occupancy such as to indicate his exclusive ownership. 3 Am J2d Adv P § 13.

actual residence. A person's actual place of abode, the place where he actually lives, which is not necessarily his legal residence. *Fitzgerald v Arel*, 63 Iowa 104. See also 25 Am J2d Dom §§ 6, 9.

actual sale. A completed sale as distinguished from a contract to sell.

actual seizin. Seizin in fact, or seizin in deed, as distinguished from seizin in law, which is merely the right of an heir to the possession of the land descended when there is no adverse possession. See 23 Am J2d Dese & D § 23.

actual seizure. A seizure which is accomplished by

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the manucaption of the thing intended to be seized. 6 Am J2d Attach § 296.

actual service. Personal service, as distinguished from service by publication or some other form of constructive service of process. 42 Am J1st Proc § 46.

The typical example of actual or personal service is that of reading the process to the person to be served or handing him a true copy upon his waiver of a reading.

See **active service**.

actual settler. As applied to settlers upon the public lands of the United States, a settlement completed by the settler and not a contemplated or possible settlement of an applicant for settlement.

The term implies an actual habitation established on some specific parcel of the land. *Oregon & C. R. Co. v United States*, 238 US 393, 432, 434, 59 L Ed 1360, 1395, 35 S Ct 908.

The residence required in order to qualify one as an actual settler must be continuous and personal. 42 Am J1st Pub L § 22.

actual total loss. This term as used in marine insurance means just what it implies, a total and actual loss to the insured of the subject matter of the insurance. To enable the insured to recover for a total loss, there must be a total destruction of value. It is not necessary to a total loss that there be an absolute destruction of the thing insured, so that nothing of it can be delivered at the point of destination, but there is a total loss if the thing is destroyed in specie, that is in the character or specie in which it was insured, even though some of its elements or parts may remain. 29A Am J Rev ed Ins § 1570.

actual use. The particular and real use to which property is devoted at a particular time. 7 Am J2d Auto Ins § 109.

As to what constitutes an actual use of materials within the meaning of a statute providing a mechanic's lien, see Anno: 39 ALR2d 452.

See **in actual use**.

actual value. The actual cash value or, if that is not ascertainable for want of a market, the intrinsic value or the value to the owner. 22 Am J2d Damg § 149. Practically identical with market value, or cash value, for the purposes of a tax statute. *Re Frank*, 123 Or 286, 261 P 893, 57 ALR 1155; Anno: 57 ALR 1158, supplemented 83 ALR 939, and 117 ALR 143.

actual violence. Physical as distinguished from inchoate violence; the element which distinguishes a battery from an assault. 6 Am J2d Asslt & B § 7.

actual waste. Commissive waste; acts injurious to the substance of an estate in land, such as cutting down trees valuable as timber and destroying, altering, or removing buildings. 56 Am J1st Waste § 4.

actuarial solvency. The ability of an insurance company or benefit society to meet accrued obligations and the obligations represented by policies and certificates in force as such appears in funds on hand and the present worth of payments of premiums and assessments to be made in the future by those insured under policies and certificates. *Jenkins v Talbot*, 338 Ill 441, 170 NE 735, 80 ALR 638.

actuarius. A notary public under the civil law, but having duties of much greater variety and more significance than a notary public in common-law jurisdictions. 39 Am J1st Notary P § 3.

Other designations of the officer in civil law jurisdictions are **registrarius**, and **scrivarius**.

actuary. One engaged in the work of calculating the cost of carrying a risk, the amount of insurance premiums, the value of future interests, life estates, and annuities.

In the civil law, the word was used to signify a clerk or registrar; and in the ecclesiastical law, it denoted a clerk in the lower house of convocation.

actum. A deed.

actus. In the civil law, an act, something performed or accomplished; also a right of way.

Lord Coke, adopting the civil law, divided private ways into three kinds: a footway, called "iter;" a footway and horseway, called "actus," and a cartway, which embraced both of the other two, called "via." To these was added a "driftway," a road over which cattle could be driven. *Jones v Venable*, 120 Ga 1, 47 NE 549.

Actus curiae neminem gravabit. The act of the court shall prejudice no one. The maxim was applied to support the entry of a judgment nunc pro tunc, where delay was the fault of the court. See *Borer v Chapman*, 119 US 587, 30 L Ed 532, 7 S Ct 342.

actus Dei (ak'tus DE'i). The term is used interchangeably with "act of God," "vis major" and "Vis Divina."
See **act of God**.

Actus Dei nemini est damnosus. The act of God does no legal damage to anyone.

Actus Dei nemini facit injuriam. An act of God does not violate the legal right of anyone. The loss from an injury caused thereby must be borne by the one who suffered it. 38 Am J1st Negl § 7.

Actus Dei vel legis nemini facit injuriam. Neither the act of God nor that of the law works legal wrong to anyone.

actus fictus in fraudem legis. A fictitious act in fraud of the law.

actus legis nemini facit injuriam. The act of the law works prejudice to no one.

Actus legitimi non recipiunt modum. Acts required by law do not admit of qualification.

Actus me invito factus, non est meus actus. An act done by me against my will is not my act.

Actus non facit reum, nisi mens sit rea. An act does not render one guilty, unless the mind is guilty. At common law, a crime had two essential elements: an act and an evil intention. 21 Am J2d Crim L § 81.

Actus repugnans non potest in esse produci. A repugnant act is of no effect.

Actus servi in iis quibus opera ejus communiter adhibita est, actus domini habetur. The act of a servant, in the sort of work in which he is generally employed, is that of the master.

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acuerdo. (Spanish.) The decision of a court; the resolution of a council or other board.

acute cholecystitis. A serious infection of the gall bladder, *Home Life Ins Co. v Madere* (CA5 Miss) 101 F2d 292.

acute disease. The antithesis of chronic disease; one which is severe, perhaps critical, as of the moment. *Home Life Ins. Co. v Madere* (CA5 Miss) 101 Fed 2d 292.

acya. Hate; malice.

ad. Latin preposition: To; toward; for; until; about.

A. D. An abbreviation of Anno Domini, in the year of our Lord; since the birth of Christ.

ad abundantiore cautelam. For greater caution.

ad admittendum clericum. For admitting the clerk; a writ directing a bishop to admit and institute a clerk, that is, one of the clergy.

adaequatio. An equivalent; a making equal.

adaerere. To value in money.

ad aliud examen. To another examination or trial. See 3 Bl Comm 113.

ad alium diem. At another day.

Adam. A bailiff or jailer.

Adamson Act. A federal statute declaring that eight hours shall be deemed a day's work for the purpose of reckoning the compensation of employees of common carriers by railroad. 45 USC §§ 65, 66; 31 Am J Rev ed Lab § 799.

ad annum vigesimum primum; et eo usque juvenes sub tutelam reponent. To the twenty-first year; and until then they place their young men under guardianship. See 1 Bl Comm 464.

adapted. Fit for use, sometimes after alteration or change.

ad assisas capiendas. The word "assize" is derived, according to Sir Edward Coke, from the Latin assideo, to sit together, and originally it signifies the jury who try the cause and sit together for that purpose. By a figure it is now made to signify the court or jurisdiction which summons this jury together by a commission of assize, or "ad assisas capiendas," which means, literally, at the summoning of the assizes. See 3 Bl Comm 185.

a datu.. From the date.

ad audiendum considerationem curiae. To hear the decision of the court

ad audiendum errores. To hear errors.

ad audiendum et determinandum. For hearing and determining.

ad audiendum judicium. See **capias ad audiendum**, etc.

adavaunt. Before.

adayement. Provocation.

adayer. To provoke.

ad bancum. At the bench; to the bench.

ad barram. At the bar.

ad barram evocatus. Called to the bar, admitted to practice law.

A.D.C. Abbreviation of **aide-de-camp**.

ad campi partem. For a share.

ad captandum. For the purpose of catching or capturing.

ad captum vulgi. By common understanding.

ad cautelam ex superabundanti. For excessive caution.

ad colligendum. For temporary collection and preservation of assets.

ad colligendum bona defuncti. For collecting the goods of the decedent.
See **letters ad colligendum bona defuncti**.

ad communem legem. The name of a common-law form of writ of entry which lay for a reversioner, after the alienation and death of the particular tenant for life.

ad commune nocumentum. For the common nuisance.

ad comparendum. To appear.

ad comparendum et ad standum juri. To appear and stand to the law, to appear in court and abide by the court's decision.

ad compotum reddendum. To render an account.

ad computandum. See **capias ad computandum**.

ad concordiam publicam promovendam. To promote the public peace. See 4 Bl Comm 425.

ad consentiendum. In consequence of consent. See 1 Bl Comm 168.

ad consulendum. To consult.

ad consulendum, ad defendendum regem. For counselling and for defending the king. See 1 Bl Comm 227.

ad credulitare. To clear one's self of a criminal charge by denial under oath.
See **purgation**.

ad crumenam. To the purse.
See **argumentum ad crumenam**.

ad culpa. Until misconduct.

ad curiam. Before the court; to the court.

ad custagium. For the costs.

ad custantia. For costs.

ad custum. At the cost.

ad damnum. To the damage; formal claim for damages in a pleading.

ad damnum clause. That clause in a declaration or complaint which sets forth the plaintiff's demand for damages and the amount thereof.

add. Calculating a total; joining with something to increase the quantity.
See **advertisement.**

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ad decisionem litis. By the decision in the action.

added damages. Punitive or exemplary damages, sometimes called smart money. 22 Am J2d Damg § 236.

ad defendendum. To defend; for defending.

ad deliberandum. To deliberate; a writ for the removal of a prisoner for trial to the proper jurisdiction, usually called **habeas corpus ad deliberandum et recipiendum.**

ad deliberandum et recipiendum. See **habeas corpus ad deliberandum et recipiendum.**

ad delinquendum. To become delinquent.

addendum. An appendix to an instrument or other writing.

addendum circle. A circle on a gear wheel which touches the points of the teeth of the wheel.

addicere. To condemn; also to deliver.

addict. In the civil law, a commitment as a prisoner. In common usage today, one who becomes an habitual user of narcotics.

addictio. (Civil law.) A judicial award under which ownership of property was acquired. The commitment of a debtor.

addictio in diem. A civil law sale contract with a proviso that the seller shall be released if a better offer is made to him on or before a certain day.

addiction. See addict.

ad diem. At the day; at a day.

additio. Same as **addition**.

addition. The arithmetical process of computing a sum. A descriptio personae; that is, some title or description written after a person's name for certainty of identification; as, Jane Lewis, wife of A. V. Lewis. Commonwealth v Lewis, 42 Mass (I Met) 148, 152. Something added to an instrument which, in the case of a will, is an alteration that must be executed and attested as a will if it is to be effective, 57 Am J1st Wills § 508. A structure built on to another structure to produce an enlarged building. As used in a fire insurance policy covering buildings and additions or personal property located in buildings and additions, the terms "additions" or "additions attached" are given a liberal construction in favor of the insured consistent with the intention of the parties. Effect is to be given to them by applying the terms to any building reasonably answering the description, provided such application is not inconsistent with other terms of the policy or clearly excluded by the facts and circumstances surrounding the parties at the time of the execution of the contract. 29 Am J Rev ed Ins § 294.

In a lease of premises already equipped for operating an oil refinery, a provision giving the lessee the right to erect and remove "additions" was held to cover new equipment installed to increase the capacity, and meet increased demands for the product. Anno: 91 ALR 540.

See **paid-up addition**.

additional. Added; supplemental; coming by way of addition.

Matter which is additional is to be distinguished from that which is amendatory in a statute. Collier v Smaltz 149 Iowa 230, 128 NW 396.

additional abstract. An appellee's abstract of the record; an amendatory abstract on appeal. 4 Am J2d A & E § 410.

additional allowances. Discretionary allowances of costs, in addition to the regular statutory costs, authorized in difficult and extraordinary cases. 20 Am J2d Costs §71. Attorneys' or referee's fees, taxed as costs. 4 Am J2d A & E § 128.

additional arbitrator. See **third arbitrator**.

additional assessment. A redetermination of liability for a tax. A further assessment for a tax of the same character previously paid in part. Girard Trust Co. v United States, 270 US 163, 70 L Ed 524, 46 S Ct 229.

additional burden. See **additional servitude**.

A structure may be an "addition" within the meaning of a fire insurance policy, notwithstanding there is no physical connection between it and the main building insured by the policy. Also, a building may be considered to come within the policy as an addition, even though it is larger and more costly than the original building. The term additions is not confined to structures in existence at the time the contract of insurance was made. 29 Am J Rev ed Ins § 294.

additional entry. An entry made by a settler on public lands of the United States after he has made a previous entry.

additional instructions. Instructions given to the jury by the court after they have retired to deliberate.

The court may exercise a wide discretion in the matter of charging the jury, and may bring them in at any time and give them additional instructions, whether requested or not. 53 Am J1st Tr § 941.

additional insurance. See **contribution between insurers; double insurance; excess insurance; other insurance clause**.

additional insured. One other than the person named as the insured under an automobile liability policy, while using the motor vehicle with the permission of the named insured for the purposes for which it is insured and within the scope of the permission granted. 7 Am J2d Auto Ins § 110.

additional liability. See **superadded liability**.

additional premium. An additional payment required of a mortgagor for the privilege of paying the principal in advance, thereby stopping the accumulation of interest. Anno: 70 ALR2d 1334.

The term is also used to designate the increase in premium payable under an insurance policy when additional coverage is given, such as an additional premium where coverage for loss by hail is added to a policy otherwise insuring only against loss from fire and windstorm.

additional servitude. A use of a different character from that for which the land was originally taken under eminent domain proceedings, amounting to the imposition of a new and additional casement on the land and requiring a new condemnation to justify its taking. 26 Am J2d Em D § 207.

additional work. Work performed by the builder under a construction contract pursuant to a modification of the terms of the contract. 13 Am J2d Bldg Contr § 4.

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additions. Plural of **addition**.

additio probat minoritatem. To add a word may indicate a lesser, as by changing "Colonel" to "Lieutenant Colonel."

additur. An increase by the court in the amount of damages awarded by the jury. 22 Am J2d Damg §§ 398 et seq.

addone. Given to.

addoubeur. A promoter; one who aids in organizing an enterprise or business.

address. Verb: To speak or to write to a person or a body; to indicate the destination of mail. Noun: The direction given on a letter or other piece of mail as to the destination. A speech or a writing. A request of an executive by a legislative body for the removal of a judge or other officer. The technical description in a bill in equity of the court to which the bill is presented, including, if desired, but not as a requirement, the name of the chancellor or judge. 27 Am J2d Equity § 180.

To call the words which one minister speaks to his congregation a "sermon," immune from regulation, and the words of another minister an "address," subject to regulation, is merely an indirect way of preferring one religion over another, in violation of the constitutional guaranties of freedom of religion. *Fowler v Rhode Island*, 345 US 67, 97 L Ed 828, 73 S Ct 526.

addressare. Same as **adrectare**.

addresser. To raise up; to hold up; to prepare.

adduce. To bring forward; to present; to offer; to introduce.

It is apparent that the word may have widely different meanings in connection with evidence adduced, for evidence offered is very different from evidence introduced. Introduced evidence is evidence received. Offered evidence may or may not be received. *Tuttle v Story County*, 56 Iowa 316, 317, 9 NW 292.

ad ea quae firequentius accidunt jura adaptantur. Laws are adapted to those cases which more commonly occur.

adeem. Taking away; to effect an ademption.
See **ademption**.

ad effectum. To the purpose.

ad effectum sequentem. To the following effect.

adeling. Same as **atheling**.

ad emendum et vendendum sine omnibus malis tolne tis, per antiquas et rectas consuetudines. For buying and selling without any improper tolls, according to old and proper customs.

ademptio. Same as **ademption**.

ademption. The extinction or satisfaction of a legacy by some act of the testator, which indicates either a revocation or an intention to revoke the bequest. *American Trust & Banking Co. v Balfour*, 138 Tenn 385, 198 SW 70, 57 Am J1st Wills § 1580. The practical nullification of a general legacy by the act of the testator, subsequent to the will, in paying money or transferring property to the legatee with the intent that the benefit conferred shall be applied on or substituted for the legacy. Anno: 26 ALR2d 14.

The foregoing definitions are subject to extension, since it is clear that an ademption of a testamentary bequest may occur by reason of the destruction or extinction of the subject matter without the agency of the testator, as by the death of an animal bequeathed by the will, in which case an ademption may occur without testatorial intention. 57 Am J1st Wills § 1580.

Where a legacy of stocks, bonds, or other corporate securities are not in the estate of the testator at the time of his death, the general rule is that the bequest is adeemed. Anno: 117 ALR 811.

adeo. To that point; so far.

adeo plene et integre. As fully and completely.

ad eosdem terminos. At or on the same terms.

adeprimes. First; in the first place.

adequacy. Sufficiency; sufficiency for a particular purpose, *Penn. & N. Y. C. & R. Co. v Mason*, 109 Pa 296.

adequacy of consideration. See **adequate consideration**.

adequate. Fully sufficient; equal to what is required; lawfully and reasonably sufficient. Standard Dict. See *Nagle v Billings*, 77 Mont 205, 250 P 445.

adequate care. The standard of reasonable care under the circumstances of the case. 38 Am J1st Neg] § 29.

adequate cause. As the term is used in the definition of manslaughter committed under sudden passion arising from an adequate cause, such cause as would commonly produce a degree of anger, rage, resentment, or terror, in a person of ordinary temper, sufficient to render the mind incapable of cool reflection. Boyett v State, 2 Tex App 93, 100.

See **adequate provocation.**

adequate compensation. The just and reasonable compensation to which an owner of property taken in an eminent domain proceeding is entitled. 27 Am J2d Em D § 266.

adequate consideration. A fair and reasonable price for the subject-matter of the contract; a consideration not so greatly disproportionate to the value as to offend against fair business dealing. Anno: 65 ALR 85.

adequate facilities. See **adequate or reasonable facilities.**

adequate legal remedy. See **adequate remedy at law.**

adequately safe. Sufficiently safe; sufficiently safe for a particular purpose. Pennsylvania & N. Y. C. & R. Co. v Mason, 109 Pa 296.

adequate or reasonable facilities. A relative expression, calling for such facilities as may be fairly demanded of a carrier, regard being had, among other things, to the size of the place, the extent of the demand for transportation, the cost of furnishing the additional accommodations asked for, and other circumstances which have a bearing upon convenience and cost. 13 Am J2d Car § 142.

adequate provocation. Provocation which is sufficient to reduce an intentional killing from murder to manslaughter and consisting of conduct on the part of the deceased which so excited the assailant

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as practically to enthrall his reason. State v Grugin, 147 Mo 39.

See **reasonable provocation.**

adequate remedy at law. A remedy at law which defeats by its existence the jurisdiction of equity, being a remedy which is plain, clear and certain, prompt or speedy, sufficient, full, or complete, practical, and efficient to the attainment of the ends of justice. 27 Am J12d Equity § 94. A term impossible of complete and accurate definition, but meaning generally relief as certain, prompt, practicable, and efficient as an injunction would be. 28 Am J Rev ed Inj § 39.

aderere. In arrears.

ad escambium ad valentiam. For exchange to the value.

adesouth. Underneath.

ad essendum. To be.

ad essendum coram iudiciariis. To be before the justices.

ad essendum de consilio suo. To be of his counsel.

ad estimationem pretii, damni, lucri, etc. To estimate the price, damage, gain, etc. See 3 Bl Comm 397.

adeu. Without day, without appointing a future day, sine die.

adevant. Before.

ad eversionem juris nostri. To the upsetting of our rights under the law.

ad excambium. See **excambium**.

ad executionem decretorum judicii, ad estimationem pretii, damni, lucri, etc. To execute the decrees of the court, to estimate the price, damage, gain, etc. See 3 Bl Comm 397.

ad exhaeredationem. To disinherit; to disherison.

ad exhaeredationem ecclesia. To the disinherison of the church.

ad exhaeredationem ipsius. To his own disinheritance.

ad exitum. At the end of pleading; at issue.

ad extremum. At the end; finally.

ad faciendum. To do; to make; for doing; for making.

ad faciendum et recipiendum. See **habeas corpus ad faciendum et recipiendum**.

ad factum praestandum. A Scotch law obligation of a very binding nature.

adficio. To strive for; to intend to accomplish.

ad fidem. Of allegiance.

ad fidem regis. Under the allegiance of the king.

ad fidem utriusque regis. Under allegiance to each king.

ad filum aquae. To the thread or center of the stream.

ad filum viae. To the middle of the way. *Parker v Inhabitants of Framingham*, 49 Mass (8 Met) 260, 267.

ad fin. An abbreviation of **ad finem**.

ad finem. To the end; at the end.

ad finem litis. At the end or to the end of the litigation.

adfines. Same as **affines**.

ad firmam. To farm.
See **fee farm**.

ad firmam ponere. To put to farm.

adfixus. Same as **affixus**.

ad foedi firmam. To fee farm.
See **fee farm**.

ad fundamen jurisdictionem. To the basic principles of jurisdiction.

ad gaolam deliberandam. For jail delivery.

ad gaolas deliberandas. To make a jail delivery.

adgisant. Adjacent.

adgisantz. Adjacent.

adgnoscerere. To admit; to accept.

ad gravamen. To the grievance or damage.

ad gravamen tenetis sui. To the grievance of his tenant.

ad grave damnum. To the great damage.

ad gustum. To the taste; to one's liking.

adherence. A Scotch action to restore marital rights. Supporting a person or a cause.

adhering. Cleaving to or supporting.

adhesion. Adherence. The uniting of tissues of the body which normally are separate, sometimes occurring as the aftermath of surgery. Acquiring relations with another nation by treaty or compact. 52 Am J1st Treat § 3.

adhesion contract. A contract that is drafted unilaterally by the dominant party and then presented on a take it or leave it basis to the weaker party, who has no real opportunity to bargain about its terms. Restatement Second, Conflict of Laws § 332a, Comment e.

adhibere deligentiam. To exercise case.

adhibere vim. To use force.

ad hoc. To this only; respecting this particularly. For this case only.

ad hoc autem creatus est et electus, ut justitiam faciat universis. He is created and chosen for the purpose of bestowing justice upon all.

Ad hoc facit. It makes to this, it goes to this effect.

ad hoc officer. An officer, such as a referee in partition. whose tenure continues only for the duration

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of the case or the performance of his duties therein, ending when his work in the case has been performed and approved by the court. *Saxe v Shea* (CA2 NY) 98 F2d 83.

ad hominem. To the man; personal,
See **argumentum ad hominem.**

Adhuc existit. It exists even now.

Adhuc remanet. It remains at the present time.

Adhuc sub judice lis est. The cause is still before the court.

Adhuc detinet. He detains up to this time.

adhuc diem. At this day.

Adhuc possunt partes resilero. The parties may withdraw at this time.

A dicto secundum quid ad dictum simpliciter. From what has been said to that which has been said plainly. An error of logic in concluding the existence of collateral facts from a presumption. *Hyde v United States*, 225 US 347, 385, 56 1, Ed 1114, 1133, 32 S Ct 793.

ad idem. To the same effect.
See **consensus ad idem.**

Ad idem facit. It goes to the same effect.

adieu. Farewell. In old English, a dismissal without opportunity for another day in court.

A digniori fieri debet denominatio. A designation should be made from the more fitting.

ad ignorantiam. To ignorance.

See **argumentum ad ignorantiam.**

ad illud. To that.

adimere. To take away; to remove.

Ad impossibilia lex non cogit. The law does not compel impossible things. A streetcar violates no law in failing to turn out for a truck. *Commonwealth v Temple*, 80 Mass (14 Gray) 69, 78.

ad indefinitum. To the indefinite; indefinitely; without end.

ad inde requisitus. From thence required.

ad infinitum. Without end; to any extent.

ad informandum conscientiam judicis. To inform the mind of the judge.

ad inopiam. Toward poverty.

ad inquirendum. A common-law writ commanding an inquiry or investigation.

ad instantiam. At the instance.

ad instantiam partio. At the instance of a party.

Ad instructiones reparationesque itinerum et pontium, nullum genus hominum, nulliusque dignitatis ac venerationis meritis, cessare oportet. Respecting the construction and repair of roads and bridges no class of men of whatever rank or dignity ought to be exempt. See 1 Bl Comm 357.

ad int. An abbreviation of **ad interim.**

ad interim. In the meantime; for the time, as an officer *ad interim*; temporary.

ad interim alimony. Same as **alimony pendente lite.**

ad interim copyright. A copyright obtainable under particular circumstances and enduring for a limited time.

Where a book or periodical is first published abroad in the English language, the deposit of one complete copy of such foreign edition in the copyright office, not later than six months after its publication abroad, with a request for the reservation of the copyright and a statement of the name and nationality of the author and copyright proprietor and of the (late of publication, secures to the author or proprietor an *ad interim* copyright having all the force and effect given to copyright by the Federal Copyright Law, which will endure until the expiration of 5 years after the date of the first publication abroad. 17 USC § 22.

ad invidiam. To hatred or prejudice.

See **argumentum ad invidiam.**

adiratus. Lost; strayed.

adire in jus. To go to law.

adire in praetorem injus. To go to law.

adit. A tunnel in a mine.

ad itinerandum. For the journey; for the voyage.

aditio haereditatis. (Civil law.) The heir's formal entry upon land inherited from his ancestor.

Aditio haereditatis pro solutione cedit. (Civil law.) Entering upon an inheritance suffices for payment.

aditus. A right of entrance.

a divisione. From a division or separation into parts.

See **argumentum a divisione.**

adjacent. Near or close to. A somewhat relative term, sometimes meaning touching or contiguous, *Clark v Coburn*, 108 Me 26, 78 A 1107. But clearly not the equivalent of "abutting" in all cases. 23 Am J2d Deeds § 242.

adjacent land. A relative term, sometimes meaning adjacent land, at other times land in the neighborhood.

In a statute authorizing a special assessment oil adjacent property, the term "adjacent" includes property in the neighborhood not actually touching the improvement, at least where the improvement is such that its benefits extend to property in the vicinity which does not lie contiguous to the improvement. 48 Am J1st Spec § 119.

As it appears in a statute conferring power to condemn "land adjacent" to that occupied by a public service corporation, the term "adjacent" may in view of the context of the statute and the purpose for which the land is taken refer to neighboring land not necessarily in contact. If a strict construction of the statute is required, as it is where the statute is in derogation of private rights, the

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term, may be confined to lands that are adjoining or contiguous. 26 Am J2d Em D § 114.

adjacent territory. The suburbs of a city which are not within the limits of another municipality. *Johnson City v Weeks*, 133 Term 277, 180 SW 327, 3 ALR 1431, 1432.

As the expression is used in air application to appropriate water for municipal use in adjacent territory, it is held to refer to built-up territory outside of but immediately adjacent to, the respective incorporated cities named in the application. *Rich v McClure*, 78 Cal App 209, 248 P 275.

adjection. A thing added. See **addition.**

adjectire. To summon to court.

adjective law. Remedial law, that which prescribes how rights are presented for adjudication and enforced and defenses maintained, as distinguished from the law known as substantive law which creates rights and supports defenses. *Mix v Board of County Commrs.* 18 Idaho 695, 112 P 215.

adjectivus. Summoned to court.

adjicere (ad-ji'se-re). To add to; to annex; to join.

adjoining. In its etymological sense, touching or contiguous. as distinguished from lying near or adjacent. *Re Ward*, 52 NY 395, 397. In certain contexts, close or near to. *Matthews v Kimball*, 70 Ark 451, 464, 69 SW 547.

So, lands separated by a public way may nevertheless adjoin. 1 Am J2d Adj L § 1.

In a lease of the fourth store in a row of six, containing a covenant by the lessor not to let any of the adjoining shops for the purpose of a specified trade in which the lessee intends to engage, the word "adjoining" is not confined to the shop oil either side of the one demised, but extends to any shop in the row, although, in the absence of the use of the word "any," as modifying the word "adjoining," the latter word may be interpreted to refer only to premises next door or physically "adjoining." *Anno*: 90 ALR 1461.

As the word appears in a deed which describes the subject matter by reference to the properties adjoining it, the word "adjoining" does not necessarily import that the boundary of the land conveyed is coterminous with the boundary of the adjoining land, for all that the word implies is contiguity, and hence it is equally applicable where one boundary is shorter than the other. 23 Am J2d Deeds § 242.

adjoining and communicating additions. Buildings or structures having some form of physical connection. 29 Am J Rev ed Ins § 294.

adjoining county. A contiguous county. For some purposes, a county which is near and readily accessible, as in a statute respecting the issuance of a writ of habeas corpus. 25 Am J1st Hab C § 106.

adjoining land. See **adjoining**.

adjoining landowners. The owners of lands that are separated by a common boundary line. 1 Am J2d Adj L § 1.

But see **adjoining**.

adjoining premises. See **adjoining**.

adjourn. To postpone or put over to a future time: as, to adjourn a meeting.

adjournal. The proceedings of a day or session of the Scotch Court of Justiciary.

See **act of adjournal**; **book of adjournal**.

adjournamentum. Adjournment.

adjournare. To adjourn.

adjournatur. It is adjourned.

adjournatus. Adjourned.

adjourned term. A period or session of court which is merely the continuance or prolongation of a regular term, so that in reality there is no more than one term. *Harris v Gest*, 4 Ohio St 469, 473.

adjournment assisas. They shall adjourn the assizes.

adjourner. To adjourn.

adjournment. The suspension of business or sessions, either for a fixed time, indefinitely, or until the opening of another term.

As used in constitutional provision that a bill shall become a law if not returned by the executive within a specified time unless "adjournment" prevents its return, the word may signify either an adjournment which is temporary or one which is final in character, and resort must be had to the context to ascertain the true sense. Anno: 64 ALR 1446.

adjournment day. The day upon which a court or legislature adjourns. The day to which a session or meeting is adjourned.

adjournment in eyre. An adjournment of court by the judges on circuit to a future session or day.

adjournment sine die. An adjournment without setting a time for another meeting or session. An adjournment which closes a term of court. 20 Am J2d Cts § 47. An adjournment which closes a session of a legislative body or a convention.

adjournment subject to call. Same as **adjournment sine die**.

adjournment without day. Same as **adjournment sine die**.

adjudge. To give judgment; to decide; to sentence.

adjudgeable. Capable of being adjudicated.

adjudged. Decided. Determined by the judgment of the court. *Drinkhouse v Van Ness*, 202 Cal 359, 260 P 869, 874.

adjudicataire. (A Canadian term from the French language.) The purchaser at a judicial sale.

adjudicate. To give judgment; to render or award judgment.

adjudicated liability. A liability determined and fixed by judgment.

adjudicatio. An adjudication; the determination of title by means of a judgment.

adjudication. The determination of the issues in an action according to which judgment is rendered; a solemn, final, and deliberate determination of an issue by the judicial power, after a hearing in respect to the matters determined. *Sans v New York*, 31 NY Misc 559, 560, 64 NYS 681.

See **articulate adjudication**; **prior adjudication**.

adjudication in bankruptcy. The determination, whether by decree or by operation of law, that a

person is a bankrupt. Bankruptcy Act § 1(2) (11 USC 1(2)); 9 Am J2d Bankr § 264.

adjudicative power. Judicial power; the power of a court to hear and determine a controversy. 20 Am J2d Cts 3 80.

adjudicatory. A term employed in speaking of the quasi-judicial functions of an administrative agency. 1 Am J2d Adm L § 138.

adjudicatory process. A process of courts and administrative agencies. 1 Am J2d Adm L § 15.

adjudicature. The act of making an adjudication; an adjudication.

ad judicium. To the judgment.

ad judiciurn provocare. To invoke judicial functions; to bring an action.

adjunctio. Adjunction; the acquisition of property by its annexation to other property

adjunction. The uniting of one article or material with another by which the lesser thing becomes a part of the greater, A synonym of accession. 1 Am J2d Access § 1.

adjunctum. An adjunct, something united or connected with another thing.

ad jungendum auxilium. To join in aid.

ad jura legis. For the rights of the law.

adjurare. To bind one's self by oath.

ad jura regis. A writ at the suit of a person holding a living from the king directed against those seeking to deprive him of it.

adjuration. Advice most solemnly given; entreaty.

adjure. To command or require performance under oath; to entreat.

adjurnamentum. An adjournment.

adjurnare. To adjourn.

adjust. To settle or to bring to a satisfactory state, so that the parties are agreed in the result; as, to adjust accounts. State ex rel. Sayre v Moore, 40 Neb 854, 59 NW 755.

When applied to a liquidated demand, the verb "adjust" has the same meaning as the word "settle" in the same connection, and means to pay the demand. When applied to an unliquidated demand it means to ascertain the amount due or to settle. In the latter connection, to settle means to effect a mutual adjustment between the parties and to agree upon the balance. State v Staub, 61 Court 553, 569.

adjusted basis. For income tax purposes, the original cost or other original basis, adjusted for such things as casualty losses, improvements, and depreciation, when appropriate.

adjusted gross income. A tax-law term for gross income less the deductions permitted by law.

adjusted service bonds. Nontransferrable bonds bestowed in recognition of military service. *Marshall v Felker*, 156 Fla 476, 23 So 2d 555, 161 ALR 167

adjuster. A person who makes a determination of a claim, especially a claim against an insurance company, and objections made thereto by the debtor or insurance company, for the purpose of arriving at an amount for which the claim will be settled. *First National Bank v Manchester Fire Assur. Co.* 64 Minn 96, 98, 66 NW 136. Sometimes acting as the agent of the insurance company or debtor, at other times as the agent of the claimant. *Aetna Ins. Co. v Shryer*, 85 Ind 362, 363; 7 Am J2d Attys § 86.

adjusting agency. In one sense, a collection agency; in another sense, an agency representing a debtor in making an arrangement with his creditors for the settlement of his obligations by modification of the indebtedness. 15 Am J2d Collect §§ 1, 2.

adjustment. The determination for the purposes of a settlement of the amount of a claim, particularly a claim against an insurance company, giving consideration to objections made by the debtor or insurance company, as well as the allegations of the claimant in support of his claim. 29A Am J Rev ed Ins § 1604.

Adjustment of claims is not confined to claims against insurance companies. An allowance made by a creditor, particularly a storekeeper, in response to a complaint by the debtor respecting the accuracy of the account or other claim, or a reduction in the claim of account made to induce a prompt payment, is in a proper sense an adjustment.

See **adjust.**

adjustment clause. A clause in a fire insurance policy, also known as a burned and unburned clause, providing that in the event of loss or damage at any location mentioned in the policy, the amount of insurance in force at that location shall be prorated to the burned and unburned portions of the property. *Indiana Lumbermen's Mutual Ins. Co. v Fair* (CA5 Miss) 109 F2d 607.

adjutant general. A state officer having duties in respect of the National Guard or active militia. See 36 Am J1st Mil §§ 42 et seq.

adjutor. A helper; an assistant; a deputy.

ad largum. At large.

See **ire ad largum.**

ad legem. At the law.

adlegiare. To purge or an accusation of crime by means of an oath.

ad lib. An abbreviation of **ad libitum**; colloquially, to speak extemporaneously.

ad libitum. At pleasure; at will.

ad litem. For the purposes of the suit. During the pendency of the action or proceedings.

ad litis decisionem. To the decision of the case.

ad litis ordinationem. To the regulation of the action.

ad lucrandum vel perdendum. For profit or loss.

Adm. Abbreviation of **admiral**; also of **admiralty**. Abbreviation of **administrator**.

ad majoram cautelam. For greater caution.

ad majus. For the greater.

admanuensis. A person who took oath with his hand on the Bible.

ad manum. At hand.

admeasure. To measure; to parcel out shares in land.

admeasurement. A measuring; an allotment; an assignment of one's share; a division.

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admeasurement of dower. Setting off to a widow the land to which she is entitled by right of dower. 25 Am J2d Dow § 156. A writ which lay against a widow to whom the heir, while under age, or his guardian, had assigned as dower more than that to which she was entitled. See 2 Bl Comm 136.

admeasurement of homestead. A preliminary to an execution sale of property of a judgment debtor who is entitled to a homestead exemption in a part of the tract sought to be subjected to execution and sale. 26 Am J1st Home § 96.

admeasurement of pasture. A writ for the proper division of rights of common.

ad medium filum aquae. To the center or thread of the stream.

ad medium filum viae. To the center or thread of the way.

ad melius inquirendum. A writ ordering a further inquest.

admensurare. To make an admeasurement.

admensuratio. Same as **admeasurement**.

admensuratione dotis. See **de admensuratione dotis**.

admensuratio nihil aliud est quam reductio admensuram. A measurement is nothing more than a reduction to measure.

adminicle. Confirmatory evidence; corroboration.

adminicular. Auxiliary; corroborative; confirmatory.

administer. To apply or enforce the law. To dispense justice. To dispense or apply medicine. To take charge; to manage, as in administering the estate of a decedent.

A board is said to administer a law while performing any ministerial act or acts which the law requires it to perform, but it does not so administer the law in the institution or defense of an action, because such latter act is done in the enforcement or resistance of the law and not in the administration of it. In re Winborne, 34 Wyo 349, 244 P 135.

administered estate. An estate of a decedent which has been completely managed and handled by executor or administrator, so that no assets remain in his possession or custody, all debts of the decedent and expenses of administration having been paid and the remaining assets distributed to the persons entitled thereto. As applied to determine the right of an administrator de bonis non to assets not "administered," goods, chattels, or credits of the decedent changed, altered, or converted by the prior executor or administrator. Chamberlin's Appeal, 70 Conn 363, 39 A 734.

administrare. To administer; to take charge of.

administratio. Same as **administration**.

administration. The execution of a law by putting it in effect, applying it to the affairs of men. The management, care, or control of anything; an executor's or administrator's management of the estate of a decedent; an officer's management of his office.

See **administer**.

administration ad colligendum. An administration for the temporary preservation of the estate of a decedent.

See **temporary administrator**.

administration cum testamento annexo. The administration of the estate of a decedent who left a will which did not name an executor, or which named one or more who will not or cannot qualify. Fidelity & C. Co. v Freeman (CA6 Tenn) 109 F 847.

administration de bonis non. The administration of a decedent's estate by an administrator de bonis non.

administration durante absentia. Administration upon the estate of a decedent during the absence of the person first entitled to letters of administration.

Concerning an appointment durante absentia, it has been ruled that such administration of the office is at an end the moment the absentee returns. See State ex rel. Hamilton v Guinotte, 156 Mo 513, 57 SW 281.

See **administrator of absentee**.

administration durante animo vitio. See **administrator durante animo vitio**.

administration durante minoritate administratoris. See **administrator durante minoritate administratoris**.

administration expenses. Items such as court costs, premium for surety bond, payments made for the preservation of the property of the estate while administration is pending, insurance premiums, attorney's fees incurred in litigation necessary in the preservation of the estate, burial expenses, allowances to widow and children, etc., for which the executor or administration may claim credit in the settlement of his accounts. 31 Am J2d Ex & Ad § 527. The expenses incurred in reducing the assets of the decedent's estate to possession, in holding them or disposing of them in accordance with the laws on succession and distribution and the decrees of the probate court. Hazard v Bliss, 43 RI 431, 113 A 469, 23 ALR 826. Rent paid by a receiver or trustee

in bankruptcy for premises occupied by them during the administration of the estate in bankruptcy. In *Re C. J. Rowe & Bros.* (DC Pa) 18 F2d 658. Wages paid by a receiver to laborers hired by him pursuant to an order of court. Anno: 27 ALR2d 709.

administration minori aetate. The administration of a decedent's estate by an administrator appointed by the court because of the minority of the executor appointed by the will.

administration of estate. The management by a fiduciary, such as an executor, administrator, receiver, trustee, guardian, etc. of the estate which comes into his custody and possession by virtue of his office, including, as the fiduciary may be authorized by law, the collection of assets, the conservation and sale of property, instituting and defending actions on behalf of the estate, distribution of assets, and reporting to the court.

See **ancillary administration; assets; auxiliary administration; cost of administration; final distribution; foreign administration; letters of administration; not administered; plene administravit; special administration; special letters of administration.**

administration pendente absentia. See **administration durante absentia.**

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administration pendente lite. The administration of a decedent's estate during the contest of the decedent's will.

administration pendente minoritate executoris. See **administrator pendente minoritate executoris.**

administration pro tem. See **administrator pro tem.**

administration suit. In English practice, an action by a creditor to subject a decedent's estate to the payment of his claim.

administration without probate. See **executor de son tort; independent executor.**

administrative act. A ministerial act. In another sense of the term, an act in the routine rather than one performed by one empowered to determine a course of action, for example, the act of a physician employed by a hospital, which is non-medical and for which the hospital may be held liable in damages if it results in injury to a patient. Anno: 72 ALR2d 424.

administrative agency. A functionary concerned with administrative law. 1 Am J2d, Adm L § 49. A single officer, board, commission, office, or department exercising administrative authority. 1 Am J2d Adm L § 8.

administrative appeal. An appeal from the decision or determination of an administrative board to a higher officer or authority in the administrative system, 2 Am J2d Adm L § 539; an appeal from the decision or determination of an administrative agency to a court. 2 Am J2d Adm L § 553.

administrative assistants. Personnel of National Guard units. Anno: 57 ALR2d 1455.

administrative board. See **administrative agency.**

administrative capacity. See **administrative act; administrative discretion; administrative employee.**

administrative commission. See **administrative agency.**

administrative discretion. The power to choose between courses of conduct in the administration of an office or a duty pertaining thereto.

From their nature, the functions, powers, and duties of administrative agencies are classified as ministerial or discretionary, that is, according to the degree of subjective choice involved in their exercise, as discretionary, judgment-passing, fact-finding, or ministerial, the four classes representing degrees of progression from a theoretically absolute subjective choice in a matter of discretion to a theoretical absence of choice in a ministerial matter. 1 Am J2d Adm L § 83.

administrative employee. An employee who performs a variety of important functions of the business but has no managerial authority. Anno: 40 ALR2d 340.

As to who is employed in "administrative capacity" within exemptions from minimum wage and maximum hours provisions of Fair Labor Standards Act, see Anno: 40 ALR2d 332.

administrative law. The law that controls, or is intended to control, the administrative operations of government. 1 Am J2d Adm L § 1.

administrative officer. An officer of the executive department of government as distinguished from a judicial officer or a member of a legislative body.

See **administrative agency**.

administrative offices of court. See **court administrative offices**.

administrative order. An order rendered by an administrative agency after a hearing and decision. 2 Am J2d Adm L §§ 434 et seq.

administrative ordinance. See **executive ordinance**.

administrative police. Officers of the police department whose function it is to maintain public order constantly in every part of their jurisdiction. State ex rel. Walsh v Hine, 59 Conn 50, 21 A 1024.

administrative power. The power of carrying laws into effect, giving them practical application to current affairs by way of management, oversight, investigation, regulation, and control, in accordance with and in execution of the principles prescribed by the lawmaker. 1 Am J2d Adm L § 81.

administrative practice. The practice prescribed by statute, which, in the case of a federal agency, is the Federal Administrative Procedure Act, for the presentation, hearing, and determination of issues by an administrative board or agency. 2 Am J2d Adm L §§ 340 et seq.

Administrative Procedure Act. A federal statute enacted in 1946 which provides a basic and comprehensive regulation of procedures in federal agencies. 2 Am J2d Adm L § 201. One of the uniform statutes.

administrative proceeding. A proceeding in or before an administrative body, as distinguished from a proceeding in a Court. 1 Am J2d Adm L § 158. Any proceeding before an administrative agency which is not of such specific nature as to give it a more particular designation. 2 Am J2d Adm L § 317.

administrative remedy. A remedy which an administrative agency is empowered by statutory authority to grant. A remedy granted by a court upon review of an order rendered by an administrative agency, where the court is empowered by statute to

substitute such order for the one under review as in its opinion the administrative agency should have rendered. 2 Am J2d Adm L 606.

administrative reports. Published opinions or orders in the adjudication of cases before administrative agencies. 2 Am J2d Adm L § 518.

administrative review. A review of the decision or determination of an administrative agency by a higher officer or authority in the administrative system. 2 Am 32d Adm L § 539. A judicial review of the decision or determination of an administrative agency. 2 Am J2d Adin L § 553.

administrative system. A plan adopted by statute as a broad general policy or objective to be attained by an administrative agency in the exercise of its power to make binding rules and regulations. 1 Am J2d Adm L § 16.

administrative tribunal. An administrative agency having an adjudicative function. 1 Am J2d Adm L § 49.

administrator. Broadly, one who administers. In the most common usage, the personal representative of a decedent's estate. Sometimes meaning an administrative agency. 1 Am J2d Aran L § 49.

See **administrator of decedent's estate.**

administrator ad colligendum. One appointed by the court to act in an **administration ad colligendum.**

administrator ad litem. An administrator appointed for the particular proceeding, under statutory authority, by the court of probate or the court of chancery, when an estate

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of a deceased person must be represented, and there is no executor or administrator of such estate, or the executor or administrator is adversely interested. *Clark v Knox*, 70 Ala 607.

administrator C. T. A. An abbreviation of **administrator cum testamento annexo.**

administrator cum testamento annexo. An administrator with the will annexed, that is, the administrator of a decedent whose will named no executor, or named an executor who cannot or will not act. *Fidelity & Casualty Co. v Freeman* (CA6 Term) 109 F 847.

administrator d. b. n. See **administrator de bonis non.**

administrator de bonis non. An administrator appointed by the court upon the refusal of the executor to act, or upon the occurrence for any other reason, of a vacancy in the office of an executor or administrator. 31 Am J2d Ex & Ad § 603.

administrator de bonis non cum testamento annexo. An administrator who succeeds an executor. 31 Am. J2d Ex & Ad § 603.

administrator durante animi vitio. An administrator of a decedent's estate, appointed for the use and benefit of the next of kin who is Of unsound mind but otherwise entitled to the appointment.

administrator durante minoritate administratoris. An administrator upon the estate of a decedent during the minority of the executor or the person entitled to general letters of administration. 31 Am J2d Ex & Ad § 649.

administrator of absentee. The administrator of the estate of a person who is presumed to be dead by reason of his absence for the statutory period. Estate of Kite, 194 Iowa 129, 187 NW 585, 24 ALR 850, 851.

See **administration durante absentia**.

administrator of decedent's estate. A person appointed by the probate court, in accordance with the governing statutes, to administer and settle intestate estates and such testate estates as have no competent executor designated by the testator. 31 Am J2d Ex & Ad § 1.

Although the position which he holds is frequently referred to as an office, he is not a public officer within the commonly accepted meaning of that term. It has been better said that the position of an administrator merely resembles an office, and that more strictly speaking it is a trust. 31 Am J2d Ex & Ad § 2.

See **ancillary administrator; coadministrator; domiciliary administrator; foreign administration. general administrator; letters of administration. plene administravit; public administrator; revocation of letters testamentary; special administrator; special letters of administration; temporary administrator.**

administrator pendente absentia. See **administration durante absentia**.

administrator pendente lite. See **special administrator**.

administrator pendente minoritate executoris. An administrator to whom letters were formerly granted when the executor was under seventeen years.

It is now the prevailing practice in the United States to pass over a minor and grant general letters of administration to a competent person who has the best right, or as good a right as anyone else, to be appointed.

administrator's right of retainer. See **retainer**.

administrator with the will annexed. See **administrator cum testamento annexo**.

administratress. Same as **administratrix**.

administratrix. A woman appointed by the court to administer the estate of a deceased person.

admiral. An officer of the Navy of the highest rank, the typical command being the entire Navy or a fleet.

See **rear admiral; vice admiral**.

admiralty. The law of the sea and the practice pertaining thereto. Courts with jurisdiction in admiralty cases.

See **bottomry bond; court of admiralty; droits of admiralty; general average; high court of admiralty; high seas; libel; lord high admiral; maritime law; navigable, et seq.; prize court; proceeding in admiralty; proctor; respondentia bond; salvage; sea laws; towage; vice-admiralty courts.**

admiralty court. A court having admiralty jurisdiction.

admiralty jurisdiction. A special jurisdiction of maritime cases vested exclusively in the federal courts.

The limits of admiralty jurisdiction are not prescribed by the Constitution or statute; they have been prescribed as the occasion arose by judicial interpretation. 2 Am J2d Adm §§ 1-8.

admiralty law. Comprehended in term **admiralty**.

admiralty lien. A lien on a vessel enforceable by a suit in rem in admiralty for repairs, supplies, towage, use of dry dock or marine railway, or other necessities furnished to the vessel. 2 Am J2d Adm § 124.

admissible evidence. Evidence which a court or other tribunal exercising judicial functions may properly receive and consider in a cause or matter which has been submitted to it.

admission. A statement of a party to an action inconsistent with his claim or position in the action and amounting therefore to proof against him. 29 Am J2d Ev § 597. Also, a statement in a pleading which admits an allegation in the pleading of his adversary, either expressly or impliedly by failure to deny the allegation. 41 Am J1st Pl § 197.

A denial coupled with a general exception of doubtful import, or a refusal to admit without specific denial or detailed reasons why an admission or denial cannot truthfully be made, constitutes an admission. *Southern R. Co. v Crosby* (CA4 SC) 201 F2d 878, 36 ALR2d 1186.

admission by demurrer. An admission for the purposes of the demurrer only.

A demurrer admits the facts well pleaded in the pleading attacked, and inferences of fact arising from the facts pleaded, for the purpose of testing the legal sufficiency of the pleading, not for the purpose of evidence in the case; once the demurrer is overruled, the admission by demurrer has served its purpose and is not to be considered evidence in the case. 41 Am J1st Pl §§ 238, 239.

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admission of alien. A privilege granted to an alien upon terms prescribed by federal statute, the most important of which is the requirement of a visa. 3 Am J2d Aliens §§ 54, 55.

admission of new state into Union. The reception into the United States, under authority of an act of Congress for that purpose enacted, of a new state clothed with all the powers of sovereignty and jurisdiction which pertained to the original states and upon an equal footing with them. 49 Am J1st States § 9.

admissions tax. An excise tax upon the sale of a ticket or other means of admission to a theater or other place of entertainment.

admission ticket. See **theater ticket**.

admission to bail. The requiring of security by bond or deposit, known as bail, under which one charged with the commission of an offense or held to require the satisfaction of an indebtedness is released under the conditions of the bond or other security for his future attendance in court and his remaining within the jurisdiction of the court. 8 Am J2d Bail § 1.

admission to membership. The reception of a member by a club or society upon application made therefor and pursuant to the bylaws, rules, and regulations of the body and the conditions imposed thereby.

The granting of membership is a matter within the control of the body and the courts are without power to compel an admission to membership. 6 Am J2d Asso & C §§ 18-18.

admission to probate. A judicial determination in the form of a judgment of the court or a formal order declaring that an instrument propounded for probate is the will of the decedent who executed it.

Such determination is official evidence of the validity of the instrument until the judgment or order is reversed on appeal or revoked or set aside in a direct attack thereon. 57 Am J1st Wills § 934.

admission to the bar. The conferring of the privilege, license, or franchise to practice law within the jurisdiction by order or judgment of the court which declares the existence in the applicant of the requisite qualifications of residence, citizenship, education, and moral character. 7 Am J2d Attys § 8.

admittance. The last stage, or perfection, of copyhold assurances. And this is of three sorts: first, an admittance upon a voluntary grant from the lord; secondly, an admittance upon surrender by the former tenant; and, thirdly, an admittance upon a descent from the ancestor. See 2 Bl Comm 370.

See **admission**.

admitted assets. A technical term of the insurance business, meaning assets of an insurance company so approved by state regulatory agencies as to permit their being taken into account in setting forth the financial condition of the company.

admitted set-off. A setoff admitted by the plaintiff in his summons or complaint.

admittendo clerico. A writ to enforce a judgment determining the king's right of making a presentation to a benefice.

admittendo in socium. A writ associating certain persons to justices of assize.

admittere. To admit; to accept; to allow; to receive; to commit.

See **admission**.

admixture. A mingling. A substance formed by mixing two or more substances.

ad modum. In such a way or manner; after the manner.

admonitio trina. A warning which was given to a prisoner standing mute.

ad mordendum. To bite; a necessary averment in a civil law action for injury by a dog.

ad mordendum assuetus. Accustomed to bite.

admortization. See mortmain; mortmain statutes.

admr. An abbreviation of **administrator**.

admrx. An abbreviation of **administratrix**.

ad nauseam. To a disgusting extent.

adnepos. The son of a great -great-grandson.

adneptis. The daughter of a great-great-granddaughter.

adnichelled. Avoided; made null.

ad nigrum. See **a rubro ad nigrum.**

adnihilare. To annul.

ad nocumentum. To the damage or nuisance of.

ad nocumentum liberi tenementi ipsorum. To the nuisance of their own freehold.

ad nocumentum liberi tenementi sui. To the nuisance of his freehold tenement. Formal words used in an assize of nuisance. See 3 Bl Comm 221.

adnotare. To sign.

adnotatio. (Civil law.) One's subscription of his name.

adnullare. Same as **adnihilare.**

ad nullius sectam. At the suit of no one.

adolescence. The age between the beginning of the age of puberty and the beginning of lawful age.

adolescentia. Same as **adolescence.**

adopt. To approve, as to adopt a regulation. To take as one's own that which was not so before. *Dallas v Beeman*, 18 Tex Civ App 335, 339, 45 SW 626.

adopted child. One having by virtue of an adoption proceeding in conformity with the statutes the legal incidents of the natural relation of parent and child. 2 Am J2d Adopt § 88. Sometimes, but not always, considered a lawful heir or legal heir. 2 Am J2d Adopt § 99. Sometimes, but not always considered lawful issue of the adoptive parent. 2 Am J2d Adopt § 98.

Whether or not an adopted child is within the meaning of the word "heirs" as it appears in a deed, a trust indenture, a will or other instrument depends upon many diverse factors, especially the content and phraseology of the particular instrument involved. The express term of the statute under which the adoption took place or which fixes rights of adopted children in the distribution of intestate property or the construction placed upon the statute, may be a factor, although generally

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such statutes are not determinative of the right of adopted children to take under an instrument which does not expressly include adopted children as grantees or beneficiaries, but are considered merely as aids in construction. Variations in interpretation may turn upon whether the grantor or testator was, himself, the adopting parent or whether the issue involved adopted children of persons other than the testator or grantor. *Fiduciary Trust Co. v Brown*, 152 Me 360, 131 A2d 191.

An adopted child is not considered to be an "heir of the body" in reference to the adopting parent, within the meaning of such term in a will, deed, or indenture of trust, unless the context of the instrument, considered in its entirety demands such construction. 2 Am J2d Adopt § 92.

Adopted children, for whom adoption statutes create the same rights of heirship as children of the body, come within the meaning of the term "lineal descendants," as used in a statute providing for the non-lapse of a devise where the devisee predeceases the testator but leaves lineal descendants. *Hoellinger v Molzohn*, 77 ND 108, 41 NW2d 217, 19 ALR2d 1147.

adoptio. Same as **adoption**.

adoption. Approval, as the adoption of a statute Anno: 132 ALR 1061. Selecting and taking as one's own that which was not so before.

adoption arrogatio. An adoption in which the person adopted submits in his own right.

adoption by acknowledgment. A term used in some statutes which provide for legitimation by the acknowledgment by the father of his child born out of wedlock. There is, of course, a distinction between adoption and legitimation. 10 Am J2d Bast § 51.

adoption by deed or agreement. A statutory method whereby a child may be adopted by deed or contract duly executed, or duly executed and recorded. 2 Am J2d Adopt § 8.

adoption of child. The means by which the legal relationship of parent and child between persons who are not so related by nature is established or created; the taking into one's family of the child of another as son or daughter and heir, and conferring upon it a title to the rights and privileges of such. 2 Am J2d Adopt § 1.

Adoption signifies the means by which one may become the child and heir of another. *Re Holibaugh's Will*, 18 NJ 229, 113 A2d 654, 52 ALR2d 1222.

Compliance with the statutes is essential. As the term is used in inheritance tax statutes imposing a higher rate of taxation as to bequests to strangers of the blood than as to bequests to adopted children, an executory contract of adoption does not constitute the child a "child adopted as such in conformity with law," within the meaning of the statutes. *Re Clark*, 105 Mont 401, 74 P2d 401, 114 ALR 496.

See **foreign adoption**.

adoption of foreign corporation. The domestication of a foreign corporation by granting it a charter. 36 Am J2d For Corp § 382.

adoption of judgment. The waiver of the right to appeal from a judgment by some act on the part of the party who would so appeal amounting to a ratification of the judgment.

In order to effect such a waiver, there must be some intent to enjoy a benefit from, or base some interest on, the judgment. See *Oatman v Hampton*, 43 Idaho 675, 256 P 529. See also 5 Am J2d A & E § 709.

adoption of statute. The participation of the legislature in the making of the law, so that the law is "adopted" when it receives the approval of both branches of the legislature. Anne: 132 ALR 1061.

In other cases, the term has been construed to mean the date when the act takes effect. 50 Am J1st Stat § 503.

adoptive parent. One who adopts a child under adoption proceedings.

adoptivus. Adoptive, whether parent or child.

ad opus. For the work; for the benefit or use.

ad ordinationem litis. For the regulation of the action.

ad ostendendum. To show.

ad ostium ecclesiae. At the door of the church. That is, at one's marriage. At one time in England all marriages were solemnized at the church door. See 2 Bl Comm 132.

See **dower ad ostium ecclesiae.**

ad patria. To the country; to the jury.

ad perpetuam. In perpetuity; permanently.

ad perpetuam rei memoriam. In perpetual memory of the matter.

ad perpetuam remanentiam. To remain perpetually.

ad primam diem litigii. At the first day of the litigation.

ad probandum aliquid per credentiam duodecim hominum vicinorum. To prove a thing by the testimony of twelve men of the neighborhood.

adpromissor. A surety; one who binds himself to perform the same act as another.

ad propinquiorem consanguineum. To the nearest in blood relationship.

ad prosequendum. To prosecute; for prosecuting.

See **habeas corpus ad prosequendum.**

Ad proximum antecedens fiat relatio, nisi impediatur sententia. Reference should be made to the matter next preceding, unless the meaning is thereby destroyed.

ad publicam vindicatam. For the vindication of the public.

ad punctum temporis. At the point of time.

Ad quaestionem facti non respondent iudices. Judges do not pass upon questions of fact. First Nat. Bank v Northwestern Nat. Bank, 152 Ill 296, 38 NE 739.

ad quaestionem juris non respondent iuratores. Jurors do not pass upon questions of law. State v Barbee, 65 Vt 1, 25 A 964.

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ad quaestionem legis respondent iudices. The judges answer a question of law.

ad quaestiones facti non respondent iudices; ad quaestiones legis non respondent juratores. Judges do not answer questions of fact; jurors do not answer questions of law.

ad quaestiones juris respondent iudices; ad quaestiones facti respondent juratores. Judges answer questions of law; jurors answer questions of fact.

ad quem. To which.

See **a quo.**

ad querimoniam. At the complaint.

adquieto. To put to rest; to satisfy by payment.

adquirere. To acquire; to gain.

adquiritur possessio. Possession is acquired.

ad quod curia concordavit. To which the court agreed.

ad quod damnum. At what loss.

ad quod non fuit responsum. To which there was no answer.

ad rationem ponere. To cite to appear.

ad recipiendum. See **habeas corpus ad deliberandum et recipiendum; habeas corpus ad faciendum et recipiendum.**

ad recognoscendum. To recognize.

adrectare. To correct; to make amends.

ad referendum. To be referred; to be deferred for subsequent attention.

ad rem. To the thing; to the point.

See **right ad rem.**

ad remanentiam. In fee.

ad reparationem et sustentationem. For repair and keeping in order.

ad respondendum. To answer.

See **capias ad respondendum; habeas corpus ad respondendum.**

adrift. Floating without power and not anchored.

See **flotsam.**

adrogation. A civil law adoption of a child who has not reached the age of puberty.

ads. An abbreviation of **ad sectam**.

ad satisfaciendum. In discharge or satisfaction.

See **capias ad faciendum; habeas corpus ad satisfaciendum**.

adscendentes. Ascendants; ancestors.

adscribere. Same as **adnotare**.

adscripticius. Same as **adscriptus**.

adscripti glebae. Plural of **adscriptus glebae**.

adscriptitii. (Civil law.) Serfs.

adscriptus. Added or annexed by writing; bound to.

adscriptus glebae. A term applied in the Roman law to laborer slaves who were permanently annexed to the land and went with a transfer of it.

ad sectam. At the suit of. Abbreviated, "ads."

adsecurare. To assure; to insure.

adsecuratio (ad-se-ku-ra'she-o). Assurance; insurance.

adsores. Special judges appointed to sit with or for the regular judges.

assignare. To assign; to allot.

adsm. An abbreviation of **ad sectam**.

ad standum rectum. To stand for the right.

adstipulator. A co-promisee having the same right as his associate to demand performance.

ad studendum et orandum. For study and prayer.

ad subeundum legem. To submit to the law.

ad subjiciendum. See **habeas corpus ad subjiciendum**.

ad terminum annorum. For a term of years.

ad terminum ponere. To postpone to another term.

ad terminum qui praeteriit. For the term which has passed.

See **entry ad terminum qui praeteriit.**

ad terminum vel ad firmam. For a term or to farm.

ad terminum vel ad tempus. For a term or for a time.

ad terminum vitae vel annorum. For a term, for life, or for years.

ad testari. To attest; to witness.

ad testificandum. For giving testimony.

See **habeas corpus ad testificandum.**

ad tractandum et consilium impendendum. For attending and valuable advice. Writs of summons ad tractandum et consilium impendendum were issued at the beginning of every parliament to require the judges and other high officials to attend the house of lords. See 1 Bl Comm 168.

ad tune. Then.

ad tune et ibidem. Then and there.

ad tune existens. Then existing or being.

adult. A grown person. One no longer a child.

See **age of majority.**

adult children. Sons or daughters who have reached the age of majority.

adulter. An adulterer; one who has carnal intercourse with the wife of another.

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adultera. An adulteress; one who has carnal intercourse with the husband of another.

adulterant. An impure, debased, or cheaper substance put into or mixed with another substance.

A substance used as a preservative may be an adulterant within the prohibition of a statute or ordinance in relation to pure food. Anne: 50 ALR 76.

adulterare. To commit adultery; to adulterate; to forge; to falsify.

adulterare rationes. To falsify accounts.

adulterated. Impure; mingled with or deteriorated by a foreign substance in imitation of the genuine article.

adulterated butter. Butter with which there is mixed any substance foreign to butter with the effect of cheapening the product in cost, and any butter in the manufacture or manipulation of which any process or material is used with the intent or effect of causing the absorption of abnormal quantities of water. *Schick v United States*, 195 US 65, 49 L Ed 99, 24 S Ct 826.

adulterated coin. Coin made of gold or silver intermixed or "adulterated," with base metal. The term is sometimes erroneously used for "base coin." *Gabe v State*, 6 Ark 540, 542.

See **base coin**.

adulterated drug. Within the meaning of the Federal Food, Drug, and Cosmetic Act, a drug which consists in whole or in part of any filthy, putrid, or decomposed substance; or which has been prepared, packed, or held under unsanitary conditions whereby it may have been contaminated or rendered injurious to health; or which is in a container of a poisonous substance which renders it injurious to health; or which is colored by a coal-tar preparation that has not been certified in accordance with the statute; or is represented to be a drug recognized in an official compendium and it falls below the standard of purity or quality set by the compendium; or if it is not of the quality and purity represented; or if any substance has been mixed therewith so as to reduce its quality and strength. 21 USC § 351.

adulterated food. Food that is diluted or depreciated in quality, which fails to come to the standards set by law as to ingredients, or to which any foreign substance, wholesome or unwholesome, is added. 22 Am J2d Food § 32.

adulteration. The process of putting an impure, debased, or cheaper substance into another substance.

adulteratores monetae. Plural of **adulatorator monetae**.

adulatorator monetae. A counterfeiter; a forger.

adulterer. A man who commits adultery.

adulteress. A woman who commits adultery.

adulterina moneta. Counterfeit money.

adulterine. (Civil law.) A child born of adulterous intercourse.

adulterine bastard. The child of a married woman by a man not her husband. 10 Am J2d Bast § 1.

adulterinum signum. a forged seal.

adulterinum testamentum. A forged will.

adulterinus. Forged; counterfeit.

adulterium. A fine imposed for adultery.

adulterous bastard. The child of a married woman by a man not her husband. 10 Am J2d Bast § 1.

adultery. At common law, sexual intercourse by a man, married or single, with a married woman not his wife. By statute in most jurisdictions, sexual intercourse by a married person with some person not his or her husband or wife. 2 Am J2d Adult § 1. As ground for divorce: -sexual intercourse between a husband and a woman other than his wife or between a wife and a man other than her husband. 24 Am J2d Div & S § 24.

See **criminal conversation; incestuous adultery; living in adultery.**

The term "adultery" was used in ecclesiastical law to denote intrusion into a bishopric.

ad ultimam vim terminorum. To the extreme limit of the terms.

adult owner. An owner not under the disability of infancy.

A corporate owner of land is held to be within a statute permitting adult owners to petition for the organization of a drainage district. *Jordan Land Co. v Freeborn*, 149 Wis 159, 135 NW 751.

ad usum et commodum. For use and benefit.

ad val. Abbreviation of **ad valorem**.

ad valentiam. At or of the value.

ad valentiam veri valoris. To the true value.

ad valorem. According to the value.

ad valorem contractus. To the value of the contract.

ad valorem duty. A customs duty calculated according to value of the import. 21 Am J2d Cust D § 82.

ad valorem tax. A tax of a fixed proportion of the value of the property to be charged, an appraisal being a prerequisite to the determination of the amount of the tax. 51 Am J1st Tax §26.

advance. Noun: A payment made before it is due or by way of a loan. Something supplied as an aid in the performance of a contract or an undertaking such as the growing of crops on leased premises. 32 Am J1st L & T § 578. An approach to win favor; an overture. Verb: To move ahead. To pay before the maturity of the obligation. To make a loan. To supply with goods.

To advance is to supply beforehand; to loan before the work is done or the goods made. *Laffin & Rand Powder Co. v Burkhardt*, 97 US 110, 24 L Ed 973; 17 Am J2d Contr § 281.

As used in statutes giving a landlord a lien on crops for supplies or money advanced to his tenant to aid him in raising the crops, an advance is anything of value for use directly or indirectly in making and saving crops, supplied in good faith to the lessee by the landlord. But generally, in order that

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a landlord may have a lien for supplies furnished or money advanced, under such a statute, he must furnish or advance the same himself; and if he merely becomes a surety or guarantor for money advanced or supplies furnished by a third person, he is not entitled to a lien. If, however, the supplies are furnished the tenant by a third person solely on the credit of the landlord, they are in effect furnished by the landlord and he may claim a lien therefor. To fall within the statute the advances or supplies must be of some one or more of the articles enumerated in the statute, and for some one or more of the purposes mentioned therein. Otherwise there is no lien. 32 Am J1st L & T § 578.

advance bid. A bid made after a judicial sale at an advance of at least ten per cent over the bid received at the sale, such advance bid being made as a condition of re-opening the bidding. 30A Am J Rev ed Jud S § 106.

advance-bill. Same as **advance-note**.

advanced age. Old age.

Advanced Research Projects Agency. A research agency of the Department of Defense, headed by a Director. Am J2d Desk, Document No. 59.

advancement. A gift by a parent to a child which the parent intends to be charged against the donee's share of the parental estate if the donor should die intestate. *Clement v Blythe*, 220 Ark 551, 248 SW2d 883, 31 ALR2d 1033.

Basically and subject to changes made in the elements by statute, an advancement is a perfect and irrevocable gift, not required by law, made by a parent, during his lifetime, to his child, with the intention on the part of the donor that such gift shall represent a part or the whole of the donor's estate that the donee would be entitled to on the death of the donor intestate. 3 Am J2d Advancem § 1.

The doctrine of advancements applies to a testate estate only as the will so provides and then by analogy only, since strictly speaking the doctrine has application to intestate estates only. 3 Am J2d Advancem § 10.

advance-note. A shipmaster's written order on the owner given as an advance on account of wages to a sailor upon his signing the ship's articles.

advance payment. See **advance**.

advances. Forward movements. Promoting acquaintanceship with the idea of obtaining favors. Payments.
See **advance**.

advantage, concession, and discrimination. A combination of terms which bespeaks a violation of law. These words as used in the Elkins Act of February 19, 1903 (49 USCA § 41) denouncing certain agreements between common carriers and shippers, must be construed to mean unlawful advantage, unlawful concession, unlawful discrimination. *United States v P. Koenig Coal Co.* 270 US 512, 70 L Ed 709, 46 S Ct 392. See also 13 Am J2d Car § 185.

advantagium. An advantage.

advena. An unnaturalized alien.

advenir. To come to; to happen.

advent. The period from the Sunday nearest November 30th until Christmas following.

adventicius. Coming from without.

adventicius pecunia. Money coming from an unusual source; not inherited or earned.

adventitius. Adventitious.

adventitious. Accidental, not inherent; coming from an external source.

ad ventrem inspiciendum. A writ for the examination of a woman to determine whether or not she is pregnant.

adventura. Same as **adventure**.

adventurae maris. Adventures of the sea.

adventure. An undertaking with an element of risk. A shipment of goods in charge of an agent to be sold by him for the shipper at the best price obtainable.

As the word "adventure" is used in marine policies, it is everywhere employed as synonymous with "peril." The word is often used by the writers to describe the enterprise or voyage as a "marine adventure" insured against. *Moore v Louisville Underwriters* (CC Tenn) 14 F 226, 233.

See **gross adventure; joint adventure**.

adventurer. A shareowner in a mine; a mine promoter. One who takes a risk; one who casts his lot with others in an undertaking involving risk.

ad verecundiam. To a sense of decency. See **argumentum ad verecundiam**.

adversa fortuna. Ill fortune.

adversary. The opposite party in a contest or an action.

adversary evidence. Evidence otherwise inadmissible which one of the parties is permitted to introduce by reason of similar or related evidence which has been tendered by his opponent. 29 Am J2d Ev § 267.

adversary proceeding. A contested action or proceeding-, one having parties, as distinguished from a proceeding on ex parte application.

adversary trial. A trial in which there are adversary parties before the court, who have had full opportunity to present and establish their opposing contentions, if any they have. *Bolden v Sloss-Sheffield Steel & Iron Co.* 215 Ala 334, 110 So 574, 49 ALR 1206, 1214.

Adversa valetudo excusat. Bad health excuses, as, in a contract for personal services.

adverse. As an adjective, in legal signification the word involves the element of hostility under a claim or color of title. *Eastern Oregon Land Co. v Cole* (CA9 Or) 92 F 949, 952. The adjective also expresses the position of persons in litigation with conflicting interests, as **adverse parties**.

As a verb, in mining law, to file an adverse claim.

adverse claim. As respects adverse possession, a claim to possession which is hostile to the true owner. In mining law, a formal assertion of an adverse claimant made under oath and filed in the United States land office pending an application for a patent. *Lightner Mining Co. v Superior Court*, 14 Cal App 642, 112 P 909. A claim to property by one in possession thereof asserted against a trustee or receiver in bankruptcy. 9 Am J2d Bankr §§ 5052.

See **adverse possession; quieting title**.

adverse enjoyment. The use of air easement under a claim of right. See **adverse possession.**

adverse interest. An interest which displaces one's own interest in whole or in part.

As used in a statute permitting a litigant to call and cross examine any person having an adverse interest in the outcome of the litigation, the term "adverse interest" is to be construed according to its common and accepted meaning, not as synonymous with "adverse testimony." 58 Am J1st Witn § 560. Under a statute which prohibits a party from testifying where the adverse party is a guardian, trustee, executor, or administrator, it is adverse interest which disqualifies a person as a witness, not merely his nominal status as plaintiff or defendant. 58 Am J1st Witn § 285.

As used in a statute providing that accounts of executors and administrators settled in the absence of any person "adversely interested" and without notice to him may be opened upon his application, the term has been defined as meaning the situation of one who has some interest in the estate, that is ' someone having such an interest as would entitle him to notice of the filing by the executor or administrator of a final report, together with a prayer for discharge. Re Holman, 216 Iowa 1186, 250 NW 498, 98 ALR 1363.

adversely interested. See **adverse interest.**

adverse parties. Persons who stand in relation to another person as being on the opposite side in an action or proceeding or whose interests are adverse to such person.

Within the meaning of the rule requiring a notice of appeal to be served upon all adverse parties, such parties include every party to the action or proceeding whose interest in the subject-matter of the appeal is adverse to, or will be affected by, the reversal or modification of the judgment, decree, or order from which the appeal is taken. Co-parties to an action who do not join in the appeal should, as a general rule, be served with notice of appeal where their interests are adverse to that of the appellant. 4 Am J2d A & E § 318.

adverse possession. An actual and visible appropriation of property commenced and continued under a claim of right inconsistent with and hostile to the claim of another. An open and notorious possession and occupation of real property under an evident claim or color of right; a possession in opposition to the true title and real owner- -a possession which is commenced in wrong and maintained in right. 3 Am J2d Adv P § 1.

The term applied in matters concerning title to lands as distinguished from incorporeal hereditaments. Anno: 27 ALR2d 325.

A title acquired by adverse possession is a title in fee simple, and is as perfect a title as one by deed from the original owner or by patent or grant from the government. Thornely v Andrews, 40 Wash 580, 82 P 899.

See **constructive possession.**

adverse use. See **adverse user.**

adverse user. A continuous and exclusive user as of right for as long as the prescriptive period. 25 Am J1st High § 12. A use against the owner of the servient tenement as distinguished from a use under such owner. Zolfinger v Frank, 110 Utah 514, 175 P2d 714, 170 ALR 770. One who uses property as his own under a claim of dominion or right existing in himself to the exclusion of all other claimants.

Use may be open and notorious and still not be adverse. Northern Pacific Ry. Co. v Cash, 67 Mont 585, 216 P 782. An adverse user which will ripen into an easement by prescription is an exclusive, open, visible, or notorious use without license or permission of the true owner of the premises, but with his knowledge and hostile to him, under a claim to a definite right

which can be the subject of a grant, that continues without interruption for the length of the prescriptive period. 17A Am J Rev ed Ease §§ 74 et seq.

adverse witness. A witness who, in the opinion of the presiding judge, is hostile.

adverso. See **adversus**.

adversus. Opposed to; aligned against.

adversus bonos mores. Contrary to good morals.

advertise. To give public notice of; to announce publicly; especially by a printed notice. *Montford v Allen*, 111 Ga 18, 19. To make known to the public through a medium of publicity that one's goods or services are available for sale or engagement.

advertisement. A notice published in handbills or a newspaper.

The word also includes notice by posting or display on signboards. The idea underlying the word has reference not so much to the vehicle or instrumentality used for getting the notice before the public, as to the diffusion, or bringing home to the public, of the information or matter contained in the notice. *People v McKean*, 76 Cal App 114, 243 P 898.

advertising lottery. The statutory offense provided for in nearly all jurisdictions of advertising in any manner whatsoever, either directly or indirectly, any lottery or the place or manner of conducting the same, or any offer or proposition to insure those participating therein from loss. In many instances the statutes are applicable to all forms of advertising, whether the lottery is to be drawn or conducted within the state or not. 34 Am J1st Lot § 27.

advice. View or opinion communicated to another, for example, a lawyer's advice to his client. In commercial law, information given as to shipments of goods, delays, the drawing of paper for acceptance, etc.

advisamento consilii nostri. See **de advisamento consilii nostri**.

advisamentum. Advisement.

advizare. To advise; to take under advisement; to consider; to be advised.

advizare vult. See **curia advizare vult**.

advisari. Same as **advizare**.

advise. To give advice; to offer an opinion as worthy or expedient to be followed; to counsel. *Long v State*, 23 Neb 33, 45, 36 NW 310.

advised. Armed with the facts or knowledge.

advisedly. Acting with a prepared mind, not on the spur of the moment.

advisement. Consideration. A court takes a case under "advisement" when, following a trial or argument on a motion, it delays rendering judgment or decision until it has examined and considered the questions involved. See *Clark v Read*, 5 NJL 571, 573.

adviser. One who gives advice, particularly one who advises in a consultation, such as a lawyer, an investment counselor, a physician, or a marriage counselor.

advisory. Informative; by way of suggestion; not conclusive. *Watt v Starke*, 101 US 247, 25 L Ed 826.

See **advisory instruction**.

Advisory Council. A federal agency composed of one delegate from each federal reserve bank, authorized to confer with the Federal Reserve Board on general business conditions, to make oral or written representations concerning matters within the jurisdiction of the board, and to call for information and to make recommendations with regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold and securities by reserve banks, open market operations by those banks, and the general affairs of the reserve banking system. 10 Am J2d Banks § 5.

advisory instruction. An instruction given by the court as to the law applicable in a criminal case in a jurisdiction where by constitution or statute the jury are the judges of the law as well as the facts. 53 Am J1st Trial § 847.

advisory judgment. One which decides a mere difference of opinions, settling no actual controversy. 22 Am J2d Dec J § 10.

advisory opinion. The opinion of a higher court upon a point before a lower one; an opinion rendered by a court, in some jurisdictions, at the request of the legislature.

advisory verdict. A verdict of a jury which the court may or may not regard, as a jury's verdict in certain admiralty cases. 2 Am J2d Adm § 141. Also, the verdict in an equity case upon an issue submitted to a jury. 27 Am J2d Equity 241.

ad vitam. For life.

ad vitam aut culpam. For life or until guilty of misbehavior, that is, during good behavior.

advocacy. The act of pleading for, supporting, or recommending; active espousal; advising or teaching; as, the advocacy of the doctrine of anarchy. *Gitlow v People of New York*, 268 US 652, 69 L Ed 1138, 45 S Ct 625. Involving active conduct, something more than adherence to an abstract doctrine. *Yates v United States*, 354 US 298, 1 L Ed 2d 1356, 77 S Ct 1064.

advocare. To call to; to summon counsel; to consult for legal advice. (Eccles.) To avow; to admit a clerk to a benefice.

advocassie. Advocacy; the functions of an advocate.

advocata. (Eccles.) A female patron having the right of presentation to a benefice; a patroness.

advocate. A barrister; one who may plead causes in court for another.

See **judge advocate**; **king's advocate**.

advocati. Advocates, persons who speak in behalf of a cause or a person; (Eccles.) Patrons; persons having the right of the presentation of a clerk or parson to a benefice.

advocatia. Patrons; protectors; privilege of advocacy.

See **advowson**.

advocati fisci. Fiscal advocates under the civil law. These advocates of the revenue somewhat resembled the king's counsel in England and could not be employed in any cause against the sovereign without special license, nor could they be employed or concerned in any private suits between subject and subject. See 3 Bl Comm 27.

advocatio. Legal advice or assistance.

advocation. A Scotch method of appeal.

See **bill of advocacy**.

advocatione decimarum. An ecclesiastical writ for the recovery of tithes.

advocator. The warrantor of a title. In old Scotch law, an appellant.

advocatus. One who is called upon to assist in litigation either as an advocate or a witness; an advocate; a pleader; a patron.

advocatus fisci. Singular of **advocati fisci**.

advocatus of the church. A term applied to a king or great nobleman when land is "loaned" to him in consideration of his patronage and protection.

ad voluntatem. At will.

ad voluntatem domini. At the will of the master.

advouter. Same as **adulterer**.

advoutrer. Same as **adulterer**.

advoutress. Same as **adulteress**.

advoutry. Same as **adultery**.

advove. (French). An advocate.

advover. Same as avow.

advow. Same as **avow**.

advowee. The holder of an advowson; a patron.

advowee paramount. The highest in patronage, the sovereign.

advowry. Same as **avowry**.

advowson. The right of presentation of a clergyman to a church or ecclesiastical benefice. A right of patronage. See 2 Bl Comm 21.

See **collative advowson; medietas advocacionis; patronage.**

advowson appendant. An advowson annexed to the possession of a manor.

advowson collative. Same as **collative advowson.**

advowson donative. An advowson whereby the patron may give a church or a chapel without presentation, institution or induction.

advowson in gross. An advowson annexed to the person of the owner and not to his manor of lands.

advowson of the moiety. The right of two patrons each to present a clerk or parson to the same church.

advowson presentative. An advowson whereby the patron has a right of presentation to the bishop or ordinary.

advowterer. An adulterer.

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advowtress. An adulteress.

advowtry. Adultery.

ad warectum. See **warectare.**

adyre. To say.

aedes. A dwelling house; a residence.

Aedes alienas combussit. He burned the dwelling of another.

aedificare. To build a house.

aedificare in tuo proprio solo non licet quod alteri noceat. It is not lawful to build on your own land that which may harm another.

aedificator. A builder.

Aedificia solo cedunt. Buildings go with the soil; that is, they pass with the title to the land.

aedificium. A building.

aedile. A Roman officer who superintended the care of public buildings, streets, weights and measures, funerals, games, and the prices of provisions.

aeditus. Same as **editus**.

aeger. Sick in mind or body.

ael. A grandfather.

aenne. Corrupted Latin for year.

Aequior est dispositio legis quam hominis. The law's disposition of a matter is more just than that of a man.

aequitas. Equity; good conscience.

For words, phrases, clauses, and maxims beginning with the word "aequitas" or "equity" see **equity** and phrases which follow such word.

aequo. To make equal. To make for justice and equity.

aequo et bono. See **ex aequo et bono**.

aequum et bonum est lex legum. That which is just and good is the law of laws.

aequum est neminem cum alterius detrimento fieri locupletiolem. It is just that no one should be enriched by the suffering of another.

aequus. Equal; just.

aequus et bonus. Justice and right.

aera. Same as era.

aerarium. The Roman treasury.

aerer. (A vernacular of the Latin "arare.") To plough.

aerial. See **antenna**.

aerial navigation. See **aeronaut; aeronautics**.

aerial flight. A flight in an airplane. Anno: 17 ALR2d 1059.

aerial geology. A branch of the science of geology, pertaining to the making of maps of areas of the earth's surface occupied by peculiar rock formations. *Lewis v Carr*, 49 Nev 366, 246 P 695.

aerial photograph. A photograph taken from an airplane, usually by a camera which operates automatically or semi-automatically; admissible in evidence on the same basis as an ordinary photograph. Anno: 57 ALR2d 1352.

aerodrome. Same as **airdrome**.

aeronaut. One trained and skilled in the art or practice of managing and manipulating aircraft and navigating in the airspace above the earth. 8 Am J2d Avi § 2.

aeronautic expedition. An expedition by aircraft.

Something more than riding as a fare-paying passenger would seem to be required to render one a participant in an aeronautic expedition, but the term in an exception to the risk in a life or accident policy has been construed with a contrary result at times, particularly where such construction is favored by other phrases of the exception. Anno: 155 ALR 1038; 29A Am J Rev ed Ins § 1270.

aeronautic operation. The act of operating an aircraft thru the air. Anno: 83 ALR 389; 99 ALR 202.

Usually understood, when appearing in an exception to the risk in a life or accident policy, purporting to exclude coverage while participating in an aeronautic operation, as not applicable to a fare-paying passenger, but a contrary result has been reached in some cases where other terms of the exclusion are considered with the expression in question. 29 Am J Rev ed Ins § 1270.

aeronautics. The art or practice of sailing in or navigating the air. *Bew v Travelers' Ins. Co.* 95 NJL 533, 112 A 859, 14 ALR 983; 8 Am J2d Avi § 2.

Aeronautics Act. A uniform statute, withdrawn by the commissioners in 1943 as obsolete. *Boyd v Whitem*, 128 Cal App 2d 641, 276 P2d 92.

See **Aircraft Financial Responsibility Act**.

Aeronautics and Space Act. A federal statute which makes provision for a national space program, declaring that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind; a federal statute establishing and providing for the organization and functions of the National Aeronautics and Space Council, the National Aeronautics and Space Administration, and the Civilian-Military Liaison Committee. 42 USC §§ 2451-2476.

Aeronautics and Space Administration. A federal agency provided by the National Aeronautics and Space Act. 42 USC §§ 2472, 2473.

Aeronautics and Space Council. A federal agency provided by the Aeronautics and Space Act.

acroplane. See **airplane**.

aerostatics. A branch of physical science dealing with the support which the air gives to objects therein.

aes. Money.

aes alienum. The money of another; a debt due to another.

aesnecia. Same as **esnecy**.

aesneciae. See **jus aesneciae**.

aesneti. Same as **esnecy**.

aes suum. His own money; a debt due from another.

aesthetic. That which is beautiful or in good taste. *People v Wolf*, 127 NY Misc 382, 386, 216 NYS 741, 744.

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aestimare. To assess; to appraise; to value.

aestimatio capitis. The value of the head;-the fine imposed for committing a murder.

aestimatio litis. The assessment of damages in a law suit.

aetas. Age.

aetas infantiae proxima. (Civil law.) The age nearest infancy. This was that part of the period of puerita, or childhood, from the age of seven years to ten and a half. From the time of his birth to the end of this period a child could not be punished for any crime. See 4 Bl Comm 22.

aetas legitima. Lawful age under the civil law; twenty-five years.

aetas perfecta. Finished age, full age. Same as **aetas legitima**.

aetas prima. The first age; infancy; a child's age up to seven years under the civil law.

actas pubertati proxima. (Civil law.) The age next to, or approaching, puberty. This was that part of the period of puerita, or childhood, from the age of ten and a half years to fourteen. During this period a child was punishable for crime if found to be doli capax, that is, capable of mischief, but the punishment was with many mitigations and was not imposed with the utmost rigor. After this period minors were liable to punishment, even capitally. See 4 Bl Comm 22.

aetate probanda. See **de aetate probanda**.

aetheling. A noble in Saxon times.

afeer. To appraise; to assess; to assess a fine or amercement.

afeerer or **afeeror.** One appointed to tax an amercement. See 4 Bl Comm 380.

affair. A matter at hand; a matter of concern. *State v Mitchell*, 210 Wis 381, 245 NW 640, 86 ALR 1361. A word of broad meaning, including a business transaction, almost anything which engages the attention of a person, even a meretricious relation with one of the opposite sex.

The French "affaire" from which the English word derived is equally broad, including business, troubles, actions in court, etc.

See **public affair**

affaire. The equivalent in French of **affair**. **affaires.** See **affair**; **charge d'affaires**.

affearment. Same as affeurement.

affect. To act upon; to produce an effect. Gaunt v Alabama Bound Oil & Gas Co. (CA5) 281 F 1279, 1282; NLRB v Suburban Lumber Co. (CA3) 121 F2d 829. To weaken, debilitate, or injure a person or thing. Ryan v Carter, 112 US 78, 23 L Ed 807.

affected. Influenced, involved, changed, weakened, touched.

affected by intoxicants. In a state of intoxication, Anno: 13 ALR2d 1003. Intoxicated. 29A Am J Rev ed Ins § 1230.

affected by plan. The status of a creditor or stockholder of a corporation in reference to the effect of a plan of reorganization upon his interest or interests.

A creditor or stockholder of a corporation in reorganization under the Bankruptcy Act is affected by a plan of reorganization only if his interest is materially affected. 9 Am J2d Bankr § 1598

affected with a public interest. Something of public consequence and affecting the community at large. 16 Am J2d Const L § 317.

See **business affected with a public interest.**

affecting. See **affect.**

affecting commerce, In commerce. Burdening or obstructing commerce. Anno: 8 ALR2d 739 (involving definition in federal labor law) 29 USC § 152(7).

affection. Tender feelings. In the medical sense, an ailment or disease, such as an affection of the liver, deranging the functions of the organ involved. Conn. Mut. Life Ins. Co. v Union Trust Co. 112 US 250, 257, 28 L Ed 708, 711, 5 S Ct 119.

See **alienation of affections; natural affection.**

affectus. Intent; disposition; attempt.

affectus punitur, licet non sequatur effectus. The attempt is punishable although the result intended does not follow.

affeere. Same as afeer.

affer. Cattle; horses.

afferatores. Same as **afeerors.**

afferatus. Assessed.

affere. Same as **afeer.**

affermer. To let to farm; to confirm, make strong.

affiance. To pledge; to engage to marry.

affiant. A person who has made an affidavit. People ex rel Livingston v Wyatt, 186 NY 383, 79 NE 330.

affidare. To swear one's faith; to make an oath of fealty or fidelity; to take the soldier's oath.

affidata. An affianced woman.

affidatio. A pledge of fealty.

affidatio dominorum. The oath taken by the members of the House of Lords.

affidatus. An ally, under the feudal system.

affidavit. Any voluntary ex parte statement reduced to writing, and sworn to or affirmed before some person legally authorized to administer an oath or affirmation. 3 Am J2d Affi § 1.

See caption; deposition; jurat; venue; verification.

affidavit for attachment. An affidavit made by or on behalf of the plaintiff and filed by him in the action in which the attachment is sought, as a prerequisite, in most jurisdictions to the issuance of the writ of attachment. 6 Am J2d Attach § 254.

affidavit in criminal prosecution. An affidavit charging the commission of a criminal offense upon which a warrant is issued for the arrest of the accused; the equivalent of a complaint or preliminary information. 21 Am J2d Crim L § 441.

affidavit of circulation. See **Newspaper Publicity Law.**

affidavit of copyright claimant. An affidavit, required upon deposit of copies of book with the Register of Copyrights, that the copies were made from type set, or from plates made from type set, within the

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limits of the United States. If the text was produced by lithographic or photo-engraving process, the affidavit must state that the process was wholly performed within the United States and that the printing and binding have also been performed within the United States. The affidavit must also state the place where the type was set or the plates were made or the other processes performed, the place of printing and binding, the date of completion of the printing or the date of publication. The affidavit may be made by the copyright claimant, his duly authorized agent or representative residing in the United States, or the printer who printed the books deposited. 18 Am J2d Copyr § 64.

affidavit of defense. The same in most jurisdictions as an affidavit of merits. In at least one jurisdiction, however, an affidavit of defense has been the equivalent of a plea or answer. 41 Am J1st Pl § 171, note.

affidavit of good cause. An affidavit required of the government in a denaturalization proceeding. 8 USC § 1451(a).

affidavit of good faith. Requirement on appeal: -an affidavit required by statute in some jurisdictions to be made by or on behalf of an appellant, stating that the appeal is not taken for delay. Even where such an affidavit is required to properly perfect an appeal, it will not be held insufficient on technical grounds. 4 Am J2d A & E § 313. The requirement of an affidavit of good faith applies in some jurisdictions to appeals from a justice of the peace. Prerequisite to filing or recording of chattel mortgage: -a requirement by statute in some jurisdictions made as a condition of the filing or recording of a chattel mortgage is the making of

an affidavit by the mortgagor or, in some jurisdictions, his agent or attorney, that the mortgage is given in good faith without design to defeat, defraud, hinder, or delay creditors, and the filing or recording of the affidavit with the mortgage. Under the Uniform Security Code, neither a security agreement nor a financing statement need be accompanied by affidavits. 15 Am J2d Chat Mtg § 49.

affidavit of merits. (sometimes called affidavit of defense). An affidavit stating the foundation of the defendant's defense and denying the right of the plaintiff to recover in the action. 41 Am J1st Pl § 172.

Such affidavit is required on a motion to set aside a default. 30A Am J Rev ed. Judgm § 719. It is also required under the practice in some jurisdictions to avoid the taking of a summary judgment against the defendant. 41 Am J1st Pl § 171.

affidavit of no collusion. An affidavit required of the plaintiff in a bill of interpleader stating that his bill is not filed in collusion with either of the defendants named therein, but merely of his own accord, to obtain the relief sought. Under modern practice, the affidavit is not required if the plaintiff's bill of complaint, duly verified, effectively alleges the absence of collusion. 30 Am J Rev ed. Interpl § 24.

affidavit on demurrer. An affidavit required by statute or by the rules of the court in some jurisdictions to be made by the attorney filing a demurrer, stating that the demurrer is not interposed for purposes of delay and that it is in the opinion of the attorney well taken in point of law.

affidavit to hold to bail. An affidavit prerequisite to an arrest in a civil action.

affidavit upon information and belief. One which is little more than a statement of opinion and lacks the essential of a positive statement required to support a prosecution for perjury. 41 Am J1st Perj § 26.

affilare. To file.

affile. To file; to deliver for filing.

See **file**.

affiliate. To join or to become connected with, as to affiliate with a lodge or club. To trace connections, as in affiliation proceedings.

affiliated. Joined or connected.

Mere control of two or more corporations by the same persons, without control of substantially all of the stock, or the mere carrying on of a business unit by two or more corporations, is not enough to make them "affiliated" within the meaning of the Income Tax Law. *Handy & Harmon v Burnet*, 284 US 136, 76 L Ed 207, 52 S Ct 51.

For discussion of affiliated corporations, see Anno: 69 ALR 1271; 95 ALR 153.

affiliated corporations. See **affiliated**.

affiliated group. A tax-law term for a chain of corporations permitted to file a consolidated return because of a common parentage based upon stock ownership.

affiliation. Connection or close association. The act of joining a lodge or club.

"Affiliation" with an organization advocating the overthrow of the government by force and violence within the federal deportation statute means something more than mere co-operation with such an organization, even where the co-operation

indicates a consistent course of conduct; the acts complained of must be of such quality as to indicate an adherence to or a furtherance of the purposes or objectives of the organization and a working alliance to bring them to fruition. *Bridges v Wixon*, 326 US 135, 89 L Ed 2103, 65 S Ct 1443.

affiliation proceedings. Judicial proceedings, otherwise known in some jurisdictions as bastardy proceedings, to establish the paternity of a child born out of wedlock and to compel the father to contribute to its support. 10 Am J2d Bast § 74.

See **affiliated**.

affinage. A word taken from the French which means refining, as of metals or sugar.

affiner. To refine; to finish.

affines. Relatives by marriage.

affinis. Singular of **affines**.

Affinis mei affinis non est mihi affinis. A relative of my relative by marriage is not my relative.

affinitas. Related by marriage.

See **affinity**.

affinity. The connection existing in consequence of marriage between each of the married persons and the kindred of the other. *Re Bordeau's Estate*, 37 Wash 2d 561, 225 132d 433, 26 ALR2d 249. The tie between one spouse and the blood relations of the other.

It is contrasted with consanguinity; it is no real kinship. Under the concept of affinity, a husband well taken in point of law. and wife are each related to the blood relations of the other spouse in the same degree as the latter, but the blood relations of one spouse are not regarded as related, by reason of the marriage, to the

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blood relations of the other spouse, and the husband is not related by affinity to the wife. *Re Bordeau's Estate*, 37 Wash 2d 561, 225 P2d 433, 26 ALR2d 249; 23 Am J2d Desc & D § 45; 26 Am J1st H & W §2; 27 Am J1st Incest § 4; 30A Am J Rev ed. Judges § 144.

Under constitutional or statutory provisions, in practically all of the states, a judge is disqualified to act in any cause wherein he may be related to one of the parties within certain specific degrees of affinity" or "consanguinity." 30A Am J Rev ed. Judges § 142.

affirm. To declare solemnly instead of making a statement under oath. 58 Am J1st Witn § 549; also, to confirm or ratify a statement, belief, opinion, decision or judgment, for example to affirm a judgment after appeal or review proceeding.

affirmance. The confirmation of a judgment or order of court. A final determination upon appeal that the proceeding under review is free from prejudicial error. 5 Am J2d A & E § 934. A positive declaration. The adoption by a person of the prior act of another which did not bind him at the time, but which was done or professed to be done on his account. 3 Am J2d Ag § 160.

affirmance-day-general. A day appointed for the general affirmance or reversal of judgments in the court of exchequer.

affirmance of judgment. A determination that the action or proceeding under review is free from prejudicial error and that the judgment appealed from shall stand. 5 Am J2d A & E § 934.

The dismissal of an appeal for want of prosecution is clearly not an affirmance of the judgment. *Drummond v Husson*, 14 NY 60, 61. Affirmance implies a consideration on the merits, while a dismissal may be very summary. 5 Am J2d A & E § 905

affirmant. A person who affirms in lieu of taking an oath.

Affirmanti, non neganti, incumbit probatio. The burden of proof is on the party who affirms, not on him who denies. Anno: 23 ALR2d 1254.

affirmare. To affirm; to assert.

affirmation. A positive statement. A solemn statement or declaration, made as a substitute for a sworn statement by a person whose conscience will not permit him to swear. 39 Am J1st Oath § 13.

An affirmation of fact constituting a representation is a warranty and not merely evidence of a warranty if its natural tendency is to induce the buyer to purchase the goods and the buyer thus induced does purchase them. *Park v Moorman Mfg. Co.* 40 Utah 273, 241 P2d 914, 40 ALR2d 273.

affirmative. An answer "yes", something beyond passive tolerance or acceptance. The side supporting a proposition; bearing the burden of proof.

affirmative action. Constructive action rather than mere negation.

As the term is used in the National Labor Relations Act in authorizing "affirmative action" by the Labor Relations Board in ordering the reinstatement of an employee who was discharged for union activities, the statute contemplates remedial, and not punitive or disciplinary action, and the order must therefore be confined to restitution for the wrong done, however widely that should be conceived. *NLRB v Leviton Mfg. Co.* (CA2) 111 F2d 619.

affirmative authorization. A positive declaration of authority rather than authorization by implication.

A boom in a river authorized and constructed in the manner required by statute is within the exception of a Federal act prohibiting obstructions in navigable streams except those affirmatively authorized by law. *Pickens v Coal River Boom Co.* 66 W Va 10, 65 SE 865.

affirmative charge. An instruction to the jury which removes an issue from consideration by the jury.

affirmative defense. A defense which amounts to something more than a mere denial of the plaintiff's allegations; a defense which sets up new matter not embraced within the ordinary scope of a denial of the material averments of the complaint.

Among such defenses are accord and satisfaction, release, estoppel, fraud when set up as a matter in avoidance, mistake, alteration of contract, excuse for nonperformance of a covenant, act of God, the statute of limitations, title by prescription, and justification of an alleged tort. 41 Am J1st Pl § 144. See also 27 Am J2d Eq § 204.

affirmative easement. An easement which entitles the owner of the dominant tenement to use the servient tenement, or which clothes him with authority to do some act on the servient tenement which would otherwise be unlawful.

Rights of way, and rights of discharge of matter over the land of another, are illustrations of affirmative easements. 17A Am J Rev ed. Eas § 13.

affirmative order. A rejected term of art. In a seemingly technical distinction between negative" and "affirmative" orders of the Interstate Commerce Commission, the opinion in *Procter & Gamble v United States*, 225 US 282, 56 L Ed 1091, 32 S Ct 761, gave authority to a doctrine which harmonizes neither with the considerations which induced it nor with the decisions which have purported to follow it. Later cases have made it clearer that "negative order" and "affirmative order are not appropriate terms of art. Thus, the Supreme Court has had occasion to find that while an order was negative in form, it was affirmative in fact. *Rochester Tel. Corp. v United States*, 307 US 125, 83 L Ed 1147, 59 S Ct 754.

affirmative plea. In equity: a plea which alleges new matter of defense, proceeding on the theory that, admitting the case stated in the bill to be true, the matter pleaded by the plea affords a sufficient reason why the plaintiff should be denied relief. 27 Am J2d Eq § 204. At Law: a special plea of matters not provable under the general issue. 41 Am J1st Pl § 144.

affirmative pregnant. An allegation in the affirmative form implying a negative in favor of the adverse party.

Such allegations are denounced as bad pleading because they are ambiguous. See *Fields v State*, 134 Ind 46, 32 NE 780.

affirmative proof. Such evidence of the truth of the matters asserted as tends to establish them, and this regardless of the character of the evidence offered. *Jenkins v Hawkeye Commercial Men's Asso.* 147 Iowa, 113, 124 NW 199.

affirmative proof of loss. Evidence in such form as is usual and customary in such cases, or as is recognized by law, and such as is calculated to convince

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or persuade the mind of the truth of the facts alleged; clearly, something more than the unverified declaration of the party in interest. 29A Am 3 Rev ed. Ins § 1404.

affirmative relief. Relief granted to a defendant In an action upon his demand therefor and proof of his right thereto.

affirmative representation. A positive allegation of a fact as presently existing. 29 Am J Rev ed. Ins § 698.

affirmative statute. A statute commanding a positive act or duty, as distinguished front a prohibition.

affirmative warranty. A warranty by all insured which asserts the existence of a fact or condition, and appears on the face of the policy, or is attached thereto and made a part thereof. 29 Am J Rev ed. Ins § 709.

affix. To attach in a degree of permanence.

affixed. Securely attached.

affixed to the freehold. So fastened to the land or to a fixture as to pass with the land; imbedded in the land, as in the case of walls; or permanently resting upon it as in the case of buildings. *Miller v Waddingham*, 3 Cal Unrep 375, 25 P 688.

See **fixture**.

affixus. Affixed to; fastened; annexed.

afflatus divinus. Divine afflatus; inspired by divinity.

affliction. A cause of pain or distress.

afforare. Same as **afere.**

afforatus. Assessed.

afforce. To add force; to add to; to increase.

afforcer. Same as **afforciare.**

afforce the assize. To compel jurors to agree to a verdict by starving them, or by adding jurors until twelve agreed.

afforciamentum. The convening of a court in extraordinary session.

afforciamentum districtionis. The afforcement or increase of pledges.

afforciamentum plegiorum. The afforcement or increase of pledges.

afforciare. To increase strengthen.

See **a fortiorari.**

afforer. To assess; to appraise.

afforest. To make into a forest.

afforestare. To afforest.

afforestation. Same as **afforestment.**

afforestment. The turning of land barren of trees into a forest.

affortiare. Same as **afforciare.**

affranchir. To enfranchise; to free.

affray. Fighting by two or more persons in a public place, to the terror of the people and the disturbance of public tranquility. Words alone do not constitute all affray is so defined, but if words uttered in a public place are accompanied by threats, drawing weapons, and attempting to use them, thus terrifying the people and disturbing the public tranquility, the offense is committed. 12 Am J2d Breach P etc § 18.

affrayer. One who in public disturber.

affreighter. The character of a ship, the party to a contract of affreightment who hires the vessel.

Such definition derives from the French and is not accepted in common-law jurisdictions without some dissent. At times, the owner of the vessel who lets it is called an "affreighter."

affreightment. A contract for the hiring of a vessel. An agreement by the owner of a vessel to employ the vessel for the carriage of specific goods belonging to one person or many persons. 48 Am J1st Ship § 296.

affretmentum. An affreightment, the hiring of a vessel.

affretement. A contract for the hiring of a vessel.

affreter. To charter a vessel under a contract of affreightment.

affreteur. (French.) One to whom a vessel is let under a contract of affreightment. The owner of a vessel who lets it to another under such a contract is a freteur or freighter. These terms are not exactly parallel in the English translation. See **affreighter**.

affri carectae. Plow horses or cattle.

affri carucae. Beasts of the cart. draft horses or cattle.

affront. An insult or indignity by word or deed.

affurare. Same as **afeer**.

afiert. Belongs to; is a part of.

AFL., Abbreviation for American Federation of Labor, which organization is now joined with the Congress of Industrial Organizations, the new title being **AFL-CIO**.

aforce. Same as **afforce**.

aforcer. Same as **afforciare**.

aforciamentum Same as **afforciamentum**.

aforesaid. Written in an earlier part of the same article or document.

aforestare. To make into a forest.

aforethought, A thought had before; premeditation; prepense.

The words "premeditated," "aforethought," and "prepense," possess etymologically the same meaning. They are the Latin and Saxon synonyms, expressing a single idea, and may possess in law precisely the same force, Sullivan v State, 100 Wis 283, 293.

See **malice aforethought; prepense**.

a fortiori. By the stronger reason; all the more.

African. See **negro**.

afri carectae. Same as **affri carectae**.

afri carucae. See **affri carucae.**

after. Behind; later in point of time. A word of futurity in a limitation of an estate in real property which in the absence of words of survivorship re

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lates to the time of enjoyment of the estate limited and not the time of vesting. 28 Am J2d Est § 257. A word, which, as it appears in a contract, indicates a condition of performance. 17 Am J2d Contr § 320.

Where an act is to be performed within a specified period "after" a day named, the general rule is to exclude the day designated and to include the last day of the specified period. 52 Am J1st Time § 27. But the word may have either an inclusive or an exclusive meaning, according to the subject-matter, context and purpose. See *Halbert v San Saba Land & Live Stock Asso.* 89 Tex 230, 34 SW 639.

after-acquired. Acquired at a time subsequent to a definite date.

after-acquired property. A term commonly employed in mortgages and for the double purpose of subjecting added security to the lien of the mortgage and of removing- in many cases -doubts which may arise as to whether improvements, repairs, and additions made since the mortgage was executed are included in it. *Shaw v Bill*, 95 US 10, 24 L Ed 333, 36 Am J1st Mfg § 33. Property acquired by the mortgagor after the date of a chattel mortgage. 15 Am 32d Chat Mtg § 24.

after-acquired title. The interest of estate in land which a grantor acquires after he has conveyed the same land to another person.

As a general rule, when a person conveys, by a deed which contains a warranty of title or which recites or imports that the grantor has title, land in which he has no interest at the time, but afterwards acquires a title to the same land, he will not be permitted to claim in opposition to his deed, front the grantee, or any person claiming title from the grantee. 23 Am J2d Deeds § 294.

afterbirth. The placenta and fetal membranes expelled from the womb after delivery of a child; a birth after the death of the father or after the making of a will by either parent.

after-born. Born afterward; born posthumously.

after-born child. A child born after the death of the father. A child born to a testator after the making of the will. 57 Am J1st Wills § 1367. A child born to the grantor fit a deed after the execution and delivery of the instrument. 23 Am J2d Deeds § 214.

See **posthumous child.**

after completion of the operation. A phrase often appearing in policies or products liability insurance in clauses which exclude coverage. 29A Am J Rev ed. Ins § 1360.

after dark. See **dark.**

after date. A familiar phrase in certain promissory notes employed in indicating the maturity of the instrument.

An instrument payable a certain number of days, months, or years "after date" matures on the last day of the time specified. 11Am J2d B & N § 285. A note with time of payment specified only as " after date" is payable immediately or at any rate, within a reasonable time, in the absence of a contrary intent expressed in the instrument. Where a note payable "after date"

was executed with a paper attached thereto stating that the payee has agreed that she will not attempt to collect the note until the maker's death, the note was held to become due on the date of death. 11Am J2d B & N § 285.

See **on demand after date**.

after demand. A condition in an instrument for the payment of money which renders the same payable only upon or after the making of a demand for payment. 11Am J2d B & N § 286.

after-discovered. Discovered after a specific time or event.

after-discovered evidence. Evidence discovered after trial, Weiss v United States (CA5 La) 120 F2d 472.

A more common term is newly discovered evidence.

aftermath. A second crop of grass the same season; the right to such a crop.

after maturity. See **indorsement after maturity**.

after nightfall. See **dark**.

afternoon. The part of the day between noon and evening.

after paying the preceding legacies and bequests. An expression used in a will which is generally held to have reference to the residue for distribution under a residuary clause and not to alter the application of the principle that lapsed legacies and devises pass under such a clause. 57 Am J1st Wills § 1449.

after possibility of issue extinct. See **fee tail after possibility of issue extinct**.

Presentment or a bill of exchange for acceptance is required in any case where the bill is payable "after sight." 11Am J2d B & N § 730.

after sight. After presentment for acceptance.

after the death. Words of futurity in a limitation of an estate in real property, which, in the absence of words of survivorship, relate to the time of enjoyment of the estate limited and not to the time of vesting of the estate. 28 Am J2d Est § 257.

after the fact. See **accessory after the fact**.

after the passage of this act. Construed, as the expression appears in local option legislation which provides that liquor licenses issued "after the passage of this act" shall be void a specified time after the holding of an election at which the sale of intoxicating liquors shall be prohibited, to mean the time when the act takes effect. 30 Am J Rev ed. Intox L § 111.

afterthought. A thought had after an event.

afterward. Subsequent to a definite happening.

againbuy. To buy back; to redeem.

against. In opposition; contrary to.

See **versus**.

against evidence. See **verdict against evidence**.

against her will. Essential allegation in indictment for rape. 44 Am J1st Rape § 56.

The words "against her will" mean exactly the same thing as "without her consent," since the crime may be committed when, strictly speaking, the woman exhibits no will at all in the transaction, as where she has been drugged, or is non compos mentis. 44 Am J1st Rape § 2.

See **against the will**.

against interest. See **declaration against interest**.

against my estate. Having reference, as a direction to charge taxes, to the general or the residuary estate. Anno: 37 ALR2d 111.

against public policy. See **public policy**.

against the form of the statute. A technical expression, the use of which is to be approved, if not declared a necessity, in an indictment founded on

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a statute which creates the offense charged. 27 Am J1st Indict § 39.

against the peace and dignity of the state. The conclusion of an indictment which is deemed essential to the validity of the indictment, except as words of like import are prescribed and used. 27 Am J1st Indict § 38.

The allegation of a prior conviction in an indictment seeking enhanced punishment of the accused as an habitual criminal need not conclude with the expression "against the peace and dignity of the state."

against the weight of the evidence. See **verdict against the evidence**.

against the will. Element of robbery.

As the phrase is used in the definition of the crime of robbery, which includes a taking against the will, it must be construed not only as to be evidenced by resistance, but also as meaning that resistance would have been offered, but was quelled either by actual force or violence, which was of itself sufficient to prevent resistance by disabling the victim or by threat sufficient to frighten the victim or by threat sufficient to frighten the victim into compliance. 46 Am J1st Rob § 22.

Against the will of prosecutrix in rape case, see **against her will**.

agalma. The impress of a design or figure on a seal.

agard. Award

See **nul fait agard**.

agatis. See **circumspecte agatis**.

age. The length of time that a person has lived, a thing has existed, or a structure has stood.

The word has several connotations, some of them inconsistent. Thus, a minor comes of "age," meaning that he has acquired discretion and can transact business without a guardian, while an older person acquires "age" at the peril of having his capacity questioned.

aged. Denoting the attainment of years, as "a boy, aged five."

Denoting that a person has grown old or has been made old by events in his life.

While the term, as applied to human beings, is not for all purposes, susceptible of precise definition, and while it is not practicable arbitrarily to fix a period of life at which the condition of being "aged" can be said to have begun, it has been held in an English case that persons fifty years of age are "aged." *Pomeroy v Willway*, L R Ch Div 5 10, and an American case holds that a man of sixty-six, though hale and hearty maybe termed "aged." *Allen v Pearce*, 101 Ga 316, 28 SE 859. The span of life having been materially lengthened in the late decades, it is submitted that courts will be reluctant to accept the statements in the foregoing cases.

A statute which declares an assault aggravated when committed by a person in robust health upon one who is "aged" or decrepit, which fails to define the word "aged," does not sufficiently comply with the legal requirement that an offense be definitely defined before a conviction under it can be sustained. Anno: 83 L Ed 921.

agency. A fiduciary relationship by which a person confides to another the management of some business to be transacted in the former's name or on his account, and by which such other person assumes to do the business and render an account of it.

In its legal sense, the term always imports commercial or contractual dealings between two parties by and through the medium of another. 3 Am J2d Ag § 1.

See **administrative agency; exclusive agency.**

agency action. The whole or part of every administrative agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act. 2 Am J2d Adm L § 204.

agency by estoppel. An agency created so far as third persons are concerned by acts and appearances which lead third persons to believe that it exists. 3 Am J2d Ag § 19.

It arises in those cases where the principal, by his culpable negligence, permits his agent to exercise powers not granted to him, even though the principal have no notice or knowledge of the conduct of the agent. It is sufficient to estop the principal from disputing the authority, in such cases, that the course of dealing in the transaction of the principal's business, between the agent and the third persons, was such as to justify them in believing that he possessed the requisite authority, and to make it the duty of the principal to know the manner in which the agent was conducting his affairs. Anno: 12 ALR 113.

agency by necessity. An agency created by necessity, that is, by an emergency arising from a particular situation making it necessary or proper for the agent to act without receiving the sanction or authorization of the principal in the matter, for example, the emergency which arises where one deserts his children, leaving them destitute. 3 Am J2d Ag § 19.

agency by operation of law. An agency which exists by force of law rather than by the mutual consent of principal and agent. 3 Am J12d Ag § 19.

agency coupled with an interest. See **power coupled with an interest.**

agency in fact. An agency created by the mutual consent of the principal and agent, as distinguished from an agency existing from necessity, by estoppel, or by operation of law.

agency of auctioneer. See **auctioneer.**

agency of the United States. A body which has the power to act as, not merely for, the highest administrative authority of the governmental establishment. Anno: 3 ALR2d 1200.

The Interstate Commerce Commission and National War Labor Board are agencies of the United States within the meaning of section 9 of the Portal-to-Portal Act. *Rogers Cartage Co. v Reynolds* (CA6 Ky) 166 F2d 317, 3 ALR2d 1090.

See **administrative agency**.

agency proceeding. Any process of a federal administrative agency. 2 Am J2d Adm L § 204

agency rule on expirations. An insurance agent's right to expirations on termination of the agency. 29 Am J Rev ed. Ins § 174.

agency-shop agreement. A form of union-security agreement under which union membership remains optional with the employee in the sense that membership is neither compulsory nor unavailable, but the employee as a condition of employment is under a duty to pay the union initiation fees and regular dues.

Such an arrangement is valid as union-security, except where prohibited by state right to work laws. Anno: 11 L Ed 2d 1001.

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agency to sell. Personal property: -an agency arising from express authorization, or implied from authorization to conduct another transaction for the principal where a sale is usually incidental to such transaction, usually accompanies it, or is reasonably necessary in accomplishing it. 3 Am J2d Ag § 99. See **exclusive agency to sell**.

Real property: -usually an agent authorized to sell real property is a special agent acting under a limited power rather than a general agent. See **power of attorney; real estate broker**.

agenda. Things to be done, matters to be attended to, at a meeting.

agens. A manager; a plaintiff.

agent. One of the parties to an agency relationship, the one who acts for and represents the other party who is known as the principal, being a substitute or deputy appointed by the principal with power to do certain things which the principal may or can do. 3 Am 32d Ag § 1. One employed to represent the employer in contractual negotiations. *American Nat Ins Co. v Denke*, 128 Tex 229, 95 SW2d 370, 107 ALR 409.

The word imports the correlative idea of a principal, and implies employment, service, delegated authority-to do something in the name or stead of the principal. *Brewer v State*, 83 Ala 113.

As used in embezzlement statutes, the term is construed in its popular sense as meaning a person who undertakes to transact some business or to manage some affair for another by the latter's authority and to render an account of such business or affair. It imports a principal and implies employment, service, and delegated authority to do something in the name and stead of the principal-an employment by virtue of which the money or property embezzled came into the agent's possession. 26 Am J2d Embez § 26.

agent and patient. A peculiar situation which arises where one is appointed by another to do or perform a thing for his own benefit, as where A appoints his creditor B to be his executor and A dies, whereupon B, acting in his capacity as executor, is authorized to pay the debt owing by A to him and acting in his own right, to receive it.

agent entrusted with goods. A commercial agent. 22 Am J2d Fact § 55.

agentes et consentientes pari poena plectantur. Both actors and those consenting are liable to the same punishment.

agent for. Words of descriptio personae which are not so expressive of an agency relationship in the execution as to relieve the agent of personal liability, the question being resolved according to what is added to the words or what appears upon the face of the instrument. 3 Am J2d Ag § 193.

agential. Pertaining to agency or to an agent.

agent intrusted. See **agent entrusted with goods.**

agent not authorized to collect. Appearing in large print on the face of an invoice of merchandise, the words constitute conclusive notice to the purchaser not to pay the agent who sold the goods. McKindly v Dunhan, 55 Wis 515, 13 NW 485.

agent of. Words of descriptio personae.

Thus, "agent of" or "president of" a designated corporation merely identifies the person by indicating a personal relationship which he has. Tucker Mfg. Co. v Fairbanks, 98 Mass 101.

See **agent for.**

agent of insured. See **insurance agent.**

agent of insurer. See **insurance agent.**

agent's actual authority. Such authority as a principal intentionally confers upon the agent, or intentionally or by want of ordinary care allows the agent to believe himself to possess. 3 Am J2d Ag § 69.

agent's apparent authority. That authority of an agent which, though not actually granted, the principal knowingly permits the agent to exercise, or which the principal holds him out as possessing.

In effect, an agent's apparent authority is, as to third persons dealing in good faith with the subject of his agency and entitled to rely upon such appearance, his real authority, and it may apply to a single transaction or a series of transactions. 3 Am J2d Ag § 73.

agent's express authority. An authorization by words given orally or in writing to do or perform a certain act or series of acts. 3 Am J2d Ag § 69.

agent's implied authority. Actual authority, circumstantially proved, which the principal is deemed to have actually intended the agent to possess. 3 Am J2d Ag § 71.

agent's incidental authority. Implied authority to perform those acts which are of like kind with the acts which the agent is expressly empowered to perform and from which the authority is implied. 3 Am J2d Ag § 71.

agent's lien. The lien of an agent on property or funds of the principal in his possession for necessary expenditures, advances, or liabilities incurred under the authority conferred upon him, and for his commissions or other compensation for his services. 3 Am J2d Ag § 242.

agent to receive service of process. An "agent authorized by appointment to receive service of process" is one actually and expressly appointed as an agent to receive service, not one whose appointment is by implication only. 26 ALR2d 1087.

An agent actually appointed to receive process on behalf of his principal. Anno: 26 ALR2d 1087. An agent of a foreign corporation upon whom, by force of statute, service of process may be made so as to bind the corporation. 36 Am J2d For Corp §§ 540 et seq.

age of choice. See **age of discretion.**

age of consent. An arbitrary age fixed by statute without reference to physical development, varying in American jurisdictions from ten to eighteen years, to denote the time of her life at which a female may consent to sexual intercourse. 44 Am J1st Rape § 19. The age which qualifies one to enter into a marriage contract. 35 Am J1st Mar § 16.

age of discretion. The age, usually fourteen, at which, under statute, a minor is entitled to choose, or at least be consulted in the selection of, a guardian. 25 Am J1st Guar § 28.

age of election. Same as **age of discretion.**

age of majority. The age, usually twenty-one, at which the disability of infancy terminates. 27 Am J1st Inf § 5.

age of nurture. The age of a child under seven.

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age of reason. See **age of discretion; Paine's Age of Reason.**

age prayer. A request of an infant party to a real action for a stay of proceedings until his majority.

age prier. Same as **age prayer.**

ager. An old English term meaning acre, derived from the Latin for land or field.

agere injuriam. To sue for damages.

agere non potest. He cannot maintain an action.

agger. A mound; a dam; a dike; a bank; a Roman road, raised in the center to shed water.

aggravated arson. The intentional damaging by an explosive substance, or setting fire to any structure, watercraft, or movable, wherein it is foreseeable that human life may be endangered. State v Murphy, 214 La 600, 38 So 2d 254.

aggravated assault. An offense variously defined in state statutes, sometimes referring to an assault with intent to commit murder, assault with intent to commit rape, assault with intent to commit robbery etc., at other times referring to a degree of the specific crime of assault. 6 Am J2d Asslt & B § 48.

aggravated damages. See **aggravation of damages.**

aggravated larceny. The offense in particular forms defined by statute, such as larceny from the person, larceny from a dwelling-house, larceny from a railroad car, larceny of Federal property, larceny of commodity supplied by a public utility, etc. 32 Am J1st Larc §§ 43 et seq.

aggravated rape. The offense of rape under circumstances which render the offense more heinous, such as tender age of the victim or a blood relationship between the accused and the victim. State v Daniels, 169 Ohio St 87, 8 Ohio 56, 157 NE2d 736, 76 ALR2d 468.

aggravation. That which enhances the gravity of a criminal or tortious act; allegations in a declaration or complaint which tend to enhance damages. An enhancement of a wrong or injury.

In some jurisdictions, an offense is aggravated by the circumstance of a previous conviction of the same offense. State v Bruno, 69 Utah 444, 256 P 109.

aggravation of damages. A phrase of several connotations: (1) an increase in compensable damages because of the circumstances which surrounded the injury; (2) an increase in the damages suffered resulting from the failure of the injured party to seek medical relief or the unskilful treatment given by the physician whom he selected and employed, which category comes within the doctrine of avoidable consequences; (3) increasing the severity of a pre-existing physical or mental condition by committing a tort against the afflicted person; and (4) an increase in exemplary or punitive damages because of the high degree of malice in the acts of the defendant which injured the plaintiff. 22 Am J2d Damg § 199.

Matter of aggravation does not consist in acts of the same kind and description as those constituting the gist of the action, but in something done by the defendant, on the occasion of committing the trespass, which is, to some extent, of a different legal character from the principal act complained of.

A very graphic illustration of matter in aggravation appears where the plaintiff declares in trespass for breaking and entering his house, and alleges in addition, that the defendant also destroyed goods in the house and debauched his daughter. Hathaway v Rice, 19 Vt 102, 107.

aggregate. A mass; an assemblage of a sum of particulars, all taken together in one number. See Anno: to O'Brien v Chicago City Railway Co. 27 ALR 506.

See **corporation aggregate**.

aggregate damage. This term, as used in a liability insurance policy limiting the liability of the insurance company to a certain sum for each accident and to another stated sum for "aggregate damage", was meant to serve as a total limit of damage to property of different persons from a closely related series of events. Anchor Casualty Co. v McCaleb (CA5 Tex) 178 F2d 322.

aggregate liability restriction. A clause in a contract for the renewal of a bond which limits the extent of the liability of the surety. 12 Am J2d Bonds § 46.

aggregatio mentium. See **meeting of the minds**.

aggressor. A person who willingly or knowingly after meeting his antagonist begins and brings about an affray or deadly conflict by using threatening language or doing some act reasonably calculated to lead to such an affray or conflict. Wilkie v State, 33 Okla Crim 225, 242 P 1057.

In order to make a man guilty of murder as the "aggressor," the one "in fault," or the one who "provokes a difficulty" in which his adversary is killed, he must have provoked it with the intent to kill his adversary or do him great bodily harm, or to afford him a pretext for wreaking his malice upon his adversary. Foutch v State, 95 Tenn 711, 34 SW 423.

aggrieved. Deprived of one's legal rights or having suffered an invasion of one's legal rights. Denied one's personal or property right. *Gloss v People*, 259 111 332, 102 NE 763.

aggrieved party. One who is injuriously affected by the act or omission of another. Anno: 13 ALR 301. One whose personal interests are or may be affected adversely. Anno: 74 ALR 1221 (review of refusal to abate a tax.) One, within the meaning of the statute governing appeals, who has an interest recognized by law in the subject matter which is injuriously affected by the judgment, or one whose property rights or personal interests are directly affected by the operation of the judgment or decree. 4 Am J2d A & E § 183.

agild. Released or exempt from fine.

agiler. A spy; an informer.

agillarius. A cowherd.

agio. (French.) The rate of exchange between one currency and another.

agiotage. (French.) Speculation.

agisant. Lying.

agiser. To lie.

agist. To agist is to feed or pasture the cattle of another on one's land, for hire.

agistamentum. An agistment.

agistare. To agist.

agistator. An agister.

agister. A person who takes cattle for hire to pasture or to care for.

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The agister's possession is that of a bailee for hire. *Atwater v Lowe* (NY) 39 Him 150, 152; 4 Am J2d Am § 72.

agister's lien. A lien upon an animal provided by contract or statute for the benefit of a person who has fed or cared for the animal. 4 Am J2d Am § 74.

agistment. The particular kind of bailment under which a man, for a consideration, takes cattle to graze and pasture on his land. 4 Am J2d Am § 72.

agistor. Same as **agister**.

agitator. One who stirs up discontent with prevailing social, economic, or political conditions.

See **labor agitator; seditious agitator.**

agitur. An action has been brought.

agnates. Blood relatives who trace their kinship through males.

agnati. Romans who traced their name and lineage through the male line to a common deceased ancestor.

agnatic. Deraigned through males or from a male.

agnatio. Agitation; relationship upon the father's side.

agnation. Relationship through males, or to a male.

agnats. Same as **agnates.**

agnise. To acknowledge; to admit.

agnize. Same as **agnise.**

agnomen. A popular appellation appended to a person's true name, for example, "Louie, the short."

agony. Violent pain of body or mind. *Chicago v. McLean*, 133 Ill 148, 24 NE 527.

agraphia. A disorder of the brain affecting the ability to write.

agrarian. Pertaining to land.

agrarianism. A socialistic plan for an equal distribution of lands; any plan for a radical change in land tenure. A movement to promote the interests of farmers as a class.

agrarian laws. Laws of ancient Rome regulating the disposition of public lands.

agrarian murder. A murder committed in a dispute over lands, boundaries or tenancy.

agrarii. The agrarians, who were the members of the Roman political party which stood for the distribution of the public lands among the people.

agrarium. A tax upon land.

a gratia. By favor; by indulgence.

agreamentum. Old English term meaning agreement.

agreare. To agree.

agreavit. He agreed.

agree. To unite upon the terms of a contract or agreement; to make an agreement; to assume a harmonious relation.

The word "agree" may be read "grant", and an "agreement under seal" construed to be a grant. *Bailey v Agawam Nat. Bank*, 190 Mass 20, 716 NE 449. This does not mean that a defective grant is always to be considered an agreement to make a grant. *Bailey v Agawam Nat. Bank*, *supra*.

agree. (French.) A solicitor or attorney in the tribunals of commerce.

agreeance. An agreement.

agreed. Having come to an agreement; having settled by mutual assent upon a course of action.

See **dismissed agreed**.

agreed case. A special proceeding, the chief characteristic of which is that the parties submit to the court an agreed statement of the ultimate facts essential to a determination of the particular litigation, so that the court will not be concerned with matters of fact, but will consider and determine openly matters of law. 3 Am J2d Agr C § 1.

The term is not an exclusive designation of the proceeding but is used interchangeably with other terms such as "case stated" and "case agreed." 3 Am J2d Agr C § 1. There is a distinction, however, between an agreed case and an **agreed statement of acts**.

agreed order. An order of court made upon the agreement of the parties rather than after a trial.

agreed price. The price agreed upon by the parties in their contract of employment or of purchase. *Fyfe v Sound Development Co.* 235 NY 266, 139 NE 263, 26 ALR 1325, 1327.

agreed statement of facts. A statement agreed or stipulated by respective counsel as being the facts of the case.

It is but a substitute for the evidence of those facts and in this respect an agreed statement of fact differs from an agreed case, which may be submitted for decision without any pleadings. *Towle v Sweeney*, 2 Cal App 29, 83 P 74.

According to some authorities, signatures of the parties or their attorneys is unnecessary to an agreed statement of facts admitted by the parties to be true in open court. *Le Barron v Harvard*, 129 Neb 460, 262 NW 26, 100 ALR 767.

agreed value. A value stipulated by the parties to a contract; the value of the insured property stated in an insurance policy known as a valued policy.

In a certificate of formation of a partnership, a statement that a limited partner had contributed property of the "agreed value" of a certain sum, the words "agreed value" had the same meaning as actual value so far as concerned the rights of third parties relying upon the certificate to their detriment. *Walrath v Ramsay*, 335 Mich 331, 55 NW2d 853, 34 ALR2d 1449.

agreement. The union of two or more minds in a thing done or to be done; a coming together of parties in opinion or determination; the union of two or more minds in a thing done or to be done. *Woodworth v State*, 20 Tex App 375, 380. A contract where made upon a sufficient consideration to do, or refrain from doing, a particular lawful thing. 17 Am J2d Contr § 1.

The legal import of the word includes not only a promise, but also the consideration for which the promise was made. *Hunt v Adams*, 5 Mass 358.

See **articles of agreement; compact; contract**.

agreement against public policy. See **contract against public policy.**

agreement by specialty. See **specialty.**

agreement for arbitration. A contract between parties to a dispute involving their respective legal rights and duties that the disputed matters shall be

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referred to the decision of others and that the parties shall be bound by the decision reached by such persons. 5 Am J2d Arb & A § 24. A contract constituting the first step in submission of a controversy to arbitration.

It may be either an agreement to submit a present controversy or part of the issues thereof or an agreement to arbitrate future controversies. In any event the rights and liabilities of the parties are controlled by the law of contracts and a valid contract is essential if a submission is to be required of a party. 5 Am J2d Arb & A § 1.

agreement for insurance. A form of temporary insurance, 29 Am J Rev ed. Ins § 205; an agreement by an insurer to cover the insured pending the execution and delivery of a formal policy of insurance. Trustees of the First Baptist Church v Brooklyn Fire Ins. Co. 19 NY 305, 308.

agreement for lease. An agreement by a landowner to enter into a lease of the premises as distinguished from a lease itself, the agreement being executory, vesting no interest in the land in the other party, and creating no liability for rent as such. In determining whether an instrument is a lease or a mere agreement for one, the intention of the parties, as manifested by the writing controls. As a rule, where the agreement contemplates the execution of a formal lease at a future time, especially where its future execution is conditional, the agreement is one for a lease and not a lease itself; but where the instrument contains apt words of present demise, and the estate granted and terms of the demise are definite and explicit, it is often held to be a present lease and not a mere agreement for one, although it also contains a provision or covenant for the execution of a more formal lease at a future time. 32 Am J1st L & T § 28.

agreement for submission. An **agreement for arbitration.**

agreement not to be performed within a year. Within the meaning of the Statute of Frauds, the expression includes only such agreements as, fairly and reasonably interpreted, do not admit of a valid execution within the space of one year.

The expression does not refer to a natural or physical impossibility, but an impossibility by the terms of the contract itself, or by the understanding and intention of the parties as shown by the contract. 49 Am J1st Stat of F § 23.

If an agreement may consistently with its terms be entirely performed within the year, although it may not be probable or expected that it will be performed within that time, it is not within the condemnation of the statute of frauds. Kent v Kent, 62 NY 560.

agreement of conveyance. Any agreement whereby one person conveys or agrees to convey to another real property or some interest therein. Larsen v Larsen, 44 Idaho 211, 256 P 369.

See **conveyance; deed.**

agreement of sale. A completed sale as distinguished from an agreement to sell.

agreements main in se. See **contracts mala in se.**

agreements mala prohibita. See **contracts mala prohibita.**

agreement to receive a bribe. A statutory offense consisting of an agreement between two persons which necessarily carries with it the essential concept of a criminal and corrupt bargain to give on the one part, and to receive on the other. A meeting of the minds for such corrupt bargain. *People v Coffey*, 161 Cal 433, 119 P 901.

agreement to sell. An executory contract, as distinguished from a completed sale under an agreement of sale. *Keogh v Peck*, 316 Ill 318, 147 NE 266, 38 ALR 115.

agreement under seal. See **contract under seal.**

agreer. (French.) To approve; to allow; to accept. To rig or equip a ship.

agrees. See **agree.**

agrees to pay mortgage debt. Assumes the mortgage. tion and delivery of the formal policy of insurance. 37 Am J1st Mtg § 997.

agres. Rigging on a vessel as known under the French law of the sea.

agri. Fields; arable lands worked in common.

agricultural. Pertaining to, connected with, or engaged in agriculture. *Slycord v Horn*, 179 Iowa 936, 162 NW 294, 7 ALR 1285, 1290.

Agricultural Adjustment Acts. Statutes providing for direct payment of public funds to farmers in connection with the regulation by the government of the production and marketing of agricultural products. 3 Am J2d Agri § 28.

Agricultural Adjustment Administration. A federal agency under an agricultural adjustment act. 7 USC 601-659 (Act of 1933); 3 Am J2d Agri § 28.

agricultural chemistry. The application of science to assist in the production of food crops and the improvement of such crops from the standpoint of nutrition.

Agricultural Children Act. An English statute (1873) regulating child labor on farms and education for child laborers. (36 and 37 Vict c 67.)

agricultural commodities. Products produced by labor upon land in an agricultural pursuit, as distinguished from lime and commercial fertilizer which are produced for the farm.

Agricultural Commodities Act. See **Perishable Agricultural Commodities Act.**

agricultural compositions and extensions. Proceedings under the Bankruptcy Act, provided as a temporary measure in 1933, but continued in effect until March 1, 1949, when the statute was allowed to expire, the objective of the legislation being

to enable a farm debtor to hold onto his property and keep operating under extensions of time for payment or redemption. 9 Am J2d Bankr § 1625.

agricultural employment. See **farm labor.**

agricultural enterprises. Processes in the preparation and marketing of agricultural or horticultural commodities. Puerto Rico Tobacco Marketing Co-op. Asso. v McComb (CA1 Puerto Rico) 181 F2d 697,

agricultural fair. A fair or exhibition, conducted by a state or county board of agriculture or by an agricultural society, which is intended to promote agriculture by including exhibits of livestock, agricultural products, farm machinery, and other products and items of interest to farmers and their families, as well as to provide amusement and entertainment for its patrons. 4 Am J2d Amuse § 19.

Agricultural Gangs Act. An English statute (1867) regulating child and female labor on farms. (30 and 31 Vict 130.)

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agricultural labor. See **farm labor.**

agricultural lands. A term of variable meaning in use, meaning, on the one hand, crop or grazing lands, and on the other hand, lands outside a city or village.

agricultural leases. Leases of farm lands. Bookout v White, 123 Mont 459, 214 P2d 861, 17 ALR2d 562; Anno: 17 ALR2d 566.

agricultural liens. Liens given by statute or special contract upon agricultural property, such as crops and domestic animals, to secure farm laborers and the vendors of seed grain, stock feed, and other products furnished for agricultural purposes. 3 Am J2d Agri § 10.

agricultural occupation. See **farming.**

agricultural products. See **farm products.**

agricultural pursuit. Every process and step taken and necessary to the completion of a finished farm product. 3 Am 32d Agri § 1; 58 Am J1st Workm Comp § 97.

See **farming.**

agricultural society. An association, which may be of a voluntary character or incorporated, organized and acting to further and advance the interests of agriculture through promoting educational activities, the holding of agricultural fairs, the collection and dissemination of information helpful directly and indirectly to farmers and stockraisers, and developing other measures intended to stimulate agriculture and promote its improvement. Downing v Indiana State Board of Agriculture, 129 Ind 443, 28 NE Rep 123; 3 Am J2d Agri § 54,

agricultural workers. See **farm labor.**

agriculture. The science or art of cultivating the soil and its fruits, especially in large areas or fields, and the rearing, feeding, and management of livestock thereon, including every process and step necessary and incident to the completion of products therefrom for consumption or market and the incidental turning of them to account.

It is broader in meaning than "farming," since it includes activities deemed extraneous to farming, such as viticulture, dairying, poultry, bee raising, and ranching. 3 Am 32d Agri § 1; 58 Am J1st Workm Comp § 97.

The word refers to the field, or farm, with all its wants, appointments, and products, as horticulture refers to the garden with its less important, though varied, products. *Slycord v Horn*, 179 Iowa 936, 162 NW 249, 7 ALR 1285, 1290. For some purposes, however, the word "agriculture" includes horticulture, as well as forestry, and the use of land for any purpose of husbandry, inclusive of the keeping and breeding of livestock, poultry or bees, and the growing of fruit or vegetables. 58 Am J1st Workm Comp § 97.

agriculturist. A student of the science of agriculture. *Downing v Indiana State Board of Agriculture*, 129 Ind 443, 28 NE Rep 123. An expert in farming; a Farmer.

agri limitati. (Roman law.) The territory acquired by conquest and assigned to the veteran soldiers.

agri mensuram. To measure land.

agt. An abbreviation of agent.

ahteid. Bound by oath,

aid. Verb: To support by furnishing strength or means. Anno: 22 ALR 1320. Noun: Money or substance given by way of assistance, for example, appropriations for foreign countries economically distressed.

See **aids; federal aid; state aid; welfare.**

aid and abet. See **aiding and abetting**

aid and assist. Implying knowledge of the illegal transportation, where the term is used in statutory provisions authorizing the seizure and confiscation of vehicles of persons who aided and assisted in the illegal transportation of intoxicating liquors. 30 Am J Rev ed. Intox L § 481.

aid and comfort. Help; assistance; encouragement; counsel. An element of the crime of treason.

One gives aid and comfort to the enemy where he commits an overt act which, in its natural consequence, if successful, would encourage and advance the interests of the enemy. *Young v United States*, 97 US 39, 24 L Ed 992; 52 Am J1st Treas § 9. The term "aid and comfort" contemplates some kind of affirmative action, deed, or physical activity tending to strengthen the enemy or weaken the power to resist him, and is not satisfied by a mere mental operation. *Cramer v United States*, 325 US 11 89 L Ed 1441, 65 S Ct 918, *Kawakita v United States*, 343 US 717, 96 L Ed 1249, 72 S Ct 950.

aid bonds. County or municipal bonds issued in aid of a private enterprise, such as a railroad, in the interest of the public. *People ex rel. Danville, Olney & Ohio River Railroad Co. v Granville*, 104 Ill 285, 288.

See **railroad aid bonds.**

aide. In one sense the same as aid; in another sense an officer in the armed forces who is an assistant to a superior.

aide de camp. An officer of the armed forces serving as an assistant to an officer of higher rank.

aider. One who aids or abets; one who advises, counsels, procures, or encourages another to commit a crime. 21 Am J2d Crim L § 119.

See **aiding and abetting**.

aider by verdict. The cure of defects in a pleading by verdict, under the rule that any defect, imperfection, or omission in any pleading, whether in substance or form, is cured by verdict if the issue joined is such as necessarily requires proof on the trial of the facts so defectively or imperfectly stated or omitted, and without which it is not to be presumed that either the judge would direct the jury to give, or the jury would have given, the verdict. 41 Am J1st PI § 404.

aiding and abetting. A familiar term in criminal law, meaning the advising, counseling, procuring, or encouraging another to commit a crime.

One accused of such acts cannot be guilty thereof unless the person aided committed a crime. 21 Am J2d Crim L § 119. If guilty, the one aiding and abetting is himself liable as a principal. 21 Am J2d Crim L § 122.

aiding an escape. Offense of rescue. 27 Am J2d Escape § 3.

aidoiomania. A species of insanity in which the person afflicted longs for every woman he sees, whether she is married or not. A deed procured by a husband to be made by the aidoiomaniac to his wife, would be set aside, for

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it runs to the subject of his mania. Ekin v McCracken (Pa) 11 Phila 534, 539.

aid-prayer. A prayer or demand that other parties shall be joined in the action and help defend his title, which a defendant tenant may make in a real action as a preliminary step before putting in his plea. He may thus call for assistance because of the feebleness of his own estate. For example, a tenant for life may pray in aid, that is, call for assistance, on the remainderman or reversioner and an incumbent parson may thus call on the patron and the ordinary. See 3 Bl Comm 300.

aidre. Same as **aider**.

aids. Services or payments rendered to the lord by a tenant in chivalry on certain occasions. First there were payments called "aids;" in the theory of our earlier authors, they were offered of the tenant's free will, to meet the costs incurred by the lord on particular occasions; but they settled into a fixed custom afterwards, if they had not really done so when those authors wrote. See F. Pollock, Land Laws, iii.

See **fifteenths; tenths**.

aid societies. Organizations of women members of churches, having the purpose of aiding and promoting the work of the church, often engaging in money-raising activities.

See benevolent associations: mutual benefit society.

aiel. A grandfather; a writ under which a grandchild could oust a stranger who dispossessed him on the day of the death of his grandfather, who was seised. See 3 Bl Comm 186.

aielesse. A grandmother.

aieul. French for grandfather.

aieule. French for grandmother.

ail. Noun: a corrupted French form of aiel, meaning grandfather. Verb: to become sick or suffer failing health.

ailment. A disease; sickness, indisposition; morbid affection of the body; not ordinarily applied to acute diseases. *McDermott v Modern Woodmen of America*, 97 Mo App 636, 654, 71 SW 833.

See **personal ailment**.

ailours. Otherwise; elsewhere.

aim. Verb: To act with a purpose; to direct a blow, to bring a firearm into position on target. Noun: Intention or purpose.

ainesse. French for primogeniture.

See **esnecy**.

ainsi. From the French, meaning so; thus.

aio. I say. The opening words of the statement of a Roman cause of action.

air. Noun: the combination of gases with which the earth is surrounded. Appearance or impression. A melody. Verb: To make known one's thoughts or grievances. To expose to the air.

air base. A center maintained by the armed services in support of activities in aviation.

airborne radioactive material. Any radioactive material disbursed in the air in the form of dust, fumes, mess, vapors, or gases. 10 CFR Cum Supp § 20.3(a)(2).

air-brake provisions. Federal regulations of appliances on trains. 44 Am J1st RR § 274.

air carrier. Any citizen of the United States who undertakes, whether directly or indirectly or by a lease or other arrangement, to engage in air transportation. 49 USC § 1301(10).

air chamber. Equipment of a motorboat to insure buoyancy in the event of capsizing. 12 Am J2d Boats § 12.

air-condition. To clean or temper the air in a building for the purpose of making the building more comfortable for habitation or work.

air-conditioning equipment. Appliances used in cleaning or cooling the air in a building.

Whether or not the equipment is a fixture, thereby constituting a part of the real estate, is a question to be answered according to the particular circumstances involved, such as the degree of attachment to the realty and the degree to which it is especially adapted to the premises involved. Anno: 43 ALR2d 1378.

air course. A passage for ventilation of a mine, now required by statute in mining states. 36 Am J1st Min & M § 147.

aircraft. Any contrivance now known or hereafter invented which is used, or designed for navigation of or flight in the air. 49 USC § 1301(5); 8 Am J2d Avi § 20.

The term "aircraft" in an aviation exclusion clause in a life or accident policy of insurance includes a glider and a seaplane. Anno: 54 ALR2d 414.

See **airplane; powered aircraft: public aircraft.**

Aircraft Financial Responsibility Act. A uniform statute, prepared by the National Conference of Commissioners on Uniform State Laws, which, by 1965, had been adopted in Massachusetts, Michigan, New Hampshire, and Connecticut. Am J2d Desk Book, Document No. 129.

airdrome. An **airport.**

aire. A court conducted by justices on circuit.

airer. To plow.

airline. A carrier by air, whether of persons, property, or both.

airman. Any individual who engages, as the person in command or a pilot, mechanic, or member of the crew, in the navigation of aircraft while underway; and (except to the extent that the Administrator of the Federal Aviation Agency may otherwise provide with respect to individuals employed outside the United States) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air-traffic control tower operator. 49 USC § 1301(7).

air navigation facility. Any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signalling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing or takeoff of aircraft. 49 USC § 401(7); Hillsborough County Aviation Authority v National Airlines, Inc. (Fla) 63 So 2d 61, 40 ALR2d 1056.

air piracy. As defined by federal statute, any seizure or exercise of control, by force or violence or by

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threat of force or violence and with wrongful intent, of an aircraft in flight in air commerce. 49 USC 1472(i) (2), as amended Sept. 5, 1961.

airplane. An aircraft. Not a motor-driven car or vehicle. McBoyle v United States, 283 US 25, 75 L Ed 816, 51 S Ct 340; Re Hayden's Estate, 174 Kan 140, 254 P2d 813, 36 ALR2d 1278; 8 Am J2d Avi § 20.

See **aircraft.**

air pollution. The pollution of the air by noxious fumes produced and arising from industrial operations, the burning of waste and rubbish, the exhausts on the engines of motor vehicles, etc. Anno: 54 ALR2d 795; 26 Am J2d Electr § 264.

airport. A field with improvements for the taking off and landing of aircraft, the loading and unloading of passengers and cargo, and the accomodation of airlines and their personnel.

The maintenance of airports comes legitimately within the scope of a municipal power in much the same manner as docks and harbor facilities for marine shipping. Municipalities are studying local conditions and commercial organizations are ever pressing the importance of establishing or improving terminal airports and of providing proper fighting for landing fields and facilities such as hangars, garages, and repair shops. *Wichita v Clapp*, 125 Kan 100, 263 P 12, 15.

See **federal airports**.

airport of entry. An airport designated as one of entry for purpose of collecting customs duties. 21 Am J2d Cust D § 60.

airship. See **aircraft**.

air show. A business use of an insured aircraft by an insured corporation engaged in flying services. 29A Am J Rev ed. Ins § 1348.

airspace. That part of space extending upward from the surface of land which is necessary for the full use of the land and enjoyment of the incidents of its ownership. 8 Am J2d Avi § 3.

See **navigable airspace**.

airt and pairt. (Scotch.) Same as **art and part**.

air traffic rules. Statutes, rules and regulations prescribed by federal and state authority, or developed by way of application of common-law principles, which govern the operation of aircraft in the air or in landing and takeoff. 8 Am J2d Avi §§ 8 et seq.

Air Transport Adjustment Board. A federal agency for the adjustment of disputes between an employer operating an airline and its employees. 31 Am J Rev ed. Lab § 348.

air transportation. Interstate, overseas, or foreign transportation of goods, other items of personal property, or the mail by aircraft. 49 USC § 1301(10).

airway. A route for aircraft in the air, open to all qualified aircraft other than those of the enemy, but subject to regulation and control under governmental authority in the interest of public safety and welfare. 8 Am J2d Avi §§ 9 et seq.

See **federal airway**.

aisement. Same as **easement**.

aisiamentum. Same as **easement**,

aisne. Eldest or first born.

See **aisne file**; **aisne fitz**.

aisneesse. Rule of primogeniture in descent.

aisne file. The eldest daughter.

aisne fitz. The eldest son.

ajournement. In French law, a summons, that is process for the commencement of an action; also, adjournment or postponement.

ajourner. To adjourn.

ajuger. To adjudge.

ajutage. A tube or pipe used in waterworks.

ajutoir. Same as **ajutage**.

akin. Related by blood; similar.

al. An abbreviation of *alius*. French form of preposition "at" or "with" as in **al armes; al barre**.
See **et al**.

Alabama Claims. Claims for compensation from Great Britain for damages inflicted upon American shipping and property by the *Alabama*, a ship of the Confederate States, which was built in Great Britain. The claims were heard by a tribunal of arbitrators and allowed in a sum somewhat in excess of \$16,000,000. The award is known as the Geneva Award and the board of arbitrators as the Geneva Convention. Similar claims for damages from depredations by the ships, *Florida* and *Shenandoah*, were also arbitrated.

al aid de Dieu. With God's help.

alae ecclesia. Architectural designation for wing aisles in a church.

Alaric. See **Law of Alaric**.

al armes. With arms.

alarm. Literally, to arms, but in modern usage a warning of danger from fire, water, an enemy, or other source of peril.

alarm list. A listing of persons under obligation to act as watchers.

alarm system. An apparatus consisting of wire and bell or horn constructed so as to be actuated by electricity, placed with more or less permanency at the entrance of a house or place of business, or at the door of a vault, and so set that any movement of the door of the house or vault, sometimes even any movement of a person in the immediate vicinity, will sound an alarm.
Anno: 133 ALR 428.

Alaska. The largest state of the Union, admitted as the 50th state on January 3, 1959, having an area of 586,400 square miles, which is the territory to which the United States acceded by purchase from Russia in 1867 conducted by Honorable William H. Seward, Secretary of State under President Andrew Johnson. The name "Alaska" is of Russian origin, having reference to the Aleutians, inhabitants of islands lying off the coast, who were the first natives contacted by Russian explorers.

a latere. From the side; collaterally.

alba. See **firma alba.**

albacea. An executor.

alba firma. Rent payable in silver.

albanagii jus. Same as **albinatus jus.**

albanus. A foreigner; an alien.

al barre. At the bar.

albinatus. A foreigner; an alien. The word is doubtless derived from the Latin "alibi," meaning elsewhere, and natus, meaning born. See 1Bl Comm 372.

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albinatus jus. A French law, repealed in 1790, whereby all of the property of a deceased alien escheated to the king.

albino. A person, even any animal, lacking normal coloration, appearing therefore in extreme whiteness of skin.

albinus. Same as **albanus.**

album. A book with blank pages for autographs or for mounting photographs or clippings from newspapers and magazines. (Roman law.) The white tablet upon which the praetor published his edicts; white; without writing; blank.

album argentum. White silver; uncoined silver.

album judicum. (Roman law.) A tablet for making up a jury list.

albus liber. A compilation of the laws of old London.

alcalde. A Spanish officer possessing judicial powers and jurisdiction similar to those of a justice of the peace. See *Castillero v United States* (US) 2 Black 17, 17 L Ed 360.

alcalde mayor. The chief officer of government in one of the less important jurisdictions of the Spanish empire of the Indies and southwestern America. See *Strother v Lucas* (US) 12 Peters 410, 443, note, 9 L Ed 1137, 1149, note.

alcaldes ordinarios. In places in which no governor resided, the regidores chose for two years, one or two persons who were not in the employ of the government as *alcaldes ordinarios*, or magistrates who held their courts and administered justice in all the cases in which a government could decide. They had seats and votes in the *ayuntamiento* or council, except when a governor or *corregidor* happened to be present. See *Strother v Lucas* (US) 12 Peters 410, 445, note, 9 L Ed H 50, note.

alcohol. A volatile, organic, limpid, colorless liquid, hot and pungent to the taste, having a slight, but not offensive scent. It has only one source, fermentation, and is extracted from its byproducts by distillation, its purity and strength depend on the degree of perfection or completeness of distillation and aging processes.

It is the intoxicating element in spiritous, vinous, malt, and other intoxicating liquors, but pure alcohol is rarely used as a beverage, and some, but not all authorities, declare that pure alcohol is not an ardent or vinous spirit, or liquor of any kind, but a distinct thing used as an intoxicating basis of strong liquors. 30 Am J Rev ed. Intox L § 12.

Alcohol Administration Act. A statute containing various provisions with respect to trade practices in connection with the marketing of intoxicating liquors. 27 USC § 205; Anno: 123 ALR 748.

alcoholic. Containing or pertaining to alcohol. One addicted to excessive use of intoxicating liquor.

alcoholic beverage. A potable liquid which contains an appreciable amount of alcohol, yet not necessarily enough of that product to be intoxicating. 30 Am J Rev ed Intox L § 4.

See **alcoholic content**.

alcoholic content. The percentage of alcohol in a liquor, determined according to volume in the United States, but according to weight in some countries.

Frequently, liquor laws provide that the term "intoxicating liquors" includes liquors which contain a specified percentage of alcohol, so that liquors containing such amounts of alcohol are subject to such laws irrespective of their intoxicating qualities. 30 Am J Rev ed Intox L § 6.

alcoholic hallucinosis. A mental derangement brought on by excessive use of alcoholic beverages. 21 Am J2d Crim L.

alcoholic liquor. Any liquor, beer, beverage or compound, whether distilled, fermented, or otherwise, by whatsoever known or called, which will produce intoxication, or which contains in excess of one per centum of alcohol and is used as a beverage. State v Glover, 133 SC 124, 125, 130 SE 213.

The latter clause of the foregoing definition is akin to the view in some jurisdictions, usually by force of statute, that "alcoholic liquors" and "intoxicating liquors" are interchangeable terms. 30 Am 3 Rev ed. Intox L § 4. Other authorities refuse to call all liquors which contain some alcohol "intoxicating liquors," without giving consideration to the percentage of alcohol contained therein. 30 Am J Rev ed. Intox L § 6.

alcoholic principle. The concept that any beverage containing alcohol will produce intoxication if a quantity sufficient for the purpose is taken. State v Fargo Bottling Works Co. 19 ND 396, 124 NW 387.

alcoholism. A state of being poisoned by alcohol or diseased from excessive use of alcoholic liquors.

al common ley. At common law. See 4 Bl Comm 327, footnote.

al contrary. To the contrary.

alcove. A recessed part of a room.

alder-best. The best of all.

alder-first. The first of all.

alderman. In the United States, a municipal officer, often called a councilman, who is a member of the common council, the legislative body of the municipality. In the older England, an alderman had significant judicial power. *Purdy v People* NY 4 Hill 384, 409.

aldermannus civitatis vel burgi. An alderman of a city or borough.

aldermannus comitatus. A county alderman.

aldermannus totius Angliae. Alderman of all England.

ale. A malt liquor, that is, one of the beverages produced by the fermentation of malt, being the product of a process by which grain is steeped in water to the point of germination, the starch of the grain being thus converted into saccharine matter, is kiln-dried, then mixed with hops, and, by a further process of brewing, made into a beverage.

It may be intoxicating, but is not a spirituous liquor, the latter being a product of distillation. 30 Am J Rev ed. Intox L § 9.

Ale was in common use in Germany in the time of Tacitus. It was provided for royal banquets in England in the reign of Edward the Confessor. *Nevin v Ladue* NY 3 Denio 43, 44.

alea. A game of chance.

aleator. A gambler.

aleatoribus. See **de aleatoribus**.

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aleatory. Uncertain; dependent on chance; involving risk or hazard.

aleatory contract. A contract, the performance of which depends on an uncertain event, such as a fire insurance contract. *Losecco v Gregory*, 108 La 648, 651, 32 So 985.

Although an agreement must be certain if it is to be enforceable as a contract, an agreement can be certain notwithstanding performance depends on an uncertain event, provided the contract is certain in respect of the assumption of the risk appertaining to such event. *Moore v Johnston*, 8 La Ann 488, 489.

aleatory sale. A sale the consummation of which rests upon an uncertainty.

ale conner. An ale taster, -an officer whose duty it was to see to the quality of the ale used within the leet.

aleger. To redress.

a lege suae dignitatis. From the law of his dignity. This was said by the Saxons to be the source of the king's power to pardon. See 4 Bl Comm 397.

aleier. Same as **adlegiare**.

alenage. Same as **alnage**.

aler. Same as **aller**.

ale-silver. A tax anciently imposed upon ale sellers in London.

ale-stake. Sign for a place where ale is sold.

aletaster. A conner or taster of ale.

aleu. Same as **alleu**.

a Pevesque. See **brief a 1'evesque**.

alfalfa weevil. See **weevil**.

alfet. A container for hot water used in the ordeal by water.

Alfred's Code. A code of laws compiled under Alfred the Great, about 877 A. D.

Alfred's Dome Book. The Liber Judicialis or Dome Book which was said to have been compiled by King Alfred. See I Bl Comm 65.

algarum maris. See **ligan**.

algo. (Spanish.) Something owned; property.

algor.. (French.) Medicine.

al huis d'esglise. At the church door. This was the customary place for the marriage ceremony.

alia. Other things.

See **inter alia**.

alia enormia. Other wrongs. A formal, general allegation usually at the end of a declaration or complaint in an action of trespass, under which circumstances of aggravation accompanying the act complained of may be proved, without further specification in the pleading, when such acts do not afford a substantial ground of action in themselves. They give character and quality to the act complained of, and show the degree of the injury, and could not be redressed at all if not alleged to be proved as incidents of the trespass. 22 Am J2d Damg § 278.

alia generis. Another kind.

alia juris. Under the authority of another, such as parent or guardian; not acting sui juris.

aliammentia. Ways for the accommodation of a tenant.

aliance. Same as **alliance**.

alias. Otherwise; also known as; at another time; as formerly.

Where, in an indictment or information, the name of the accused is given, followed by "alias" and another name, "alias" stands for "alias dictus," and indicates, not that the person referred to bears both names, but that he is called by one or the other, and hence the use of either one of said names identifies the accused as the person referred to. See *State v Melson*, 161 La 423, 426, 108 So 794.

alias dictus. Also called.

"The true name is that which precedes an alias dictus. An alias dictus, as one of the old cases says, is only reputation, and is not the truth." *Reid v Lord* (NY) 4 Johns 118.

alias execution. See **alias writ of execution.**

alias summons. A new summons issued in the same form and to serve the same purpose as one previously issued, and usually issued where the original summons has been returned, and hence has become functus officio, without having been served on any or all of the defendants. *Hill v Morgan*, 9 Idaho 718, 76 P 323.

alias warrant. A second warrant, for example, a second warrant for the collection of taxes or a distratint, issued after the first one has failed to produce.

alias writ. A writ issued to take the place of a similar writ which has been lost or returned or for some other reason has not taken effect or has become functus officio. See 3 Bl Comm 283.

alias writ of execution. A second writ of execution issued in the same cause, where a former writ of the same kind has been issued without effect or without complete effect in satisfying the judgment upon which the writ was issued. 30 Am J2d Exec § 84.

alibi. A rebuttal of evidence of the prosecution by evidence that the accused was elsewhere than at the alleged scene of the offense at the time of the offense. 21 Am J2d Crim L § 136.

alibi natus. Born in another place.

alien. Noun: A person born in another country of parents who are not citizens of the United States, and who has not been naturalized here, or, one who, having been a citizen of the United States, has expatriated himself. 3 Am J2d Aliens § 1. Verb: To transfer property to another. Same as **alienate**.

See **deportation; immigrant**.

alienable. Lawfully transferable.

alienage. The state or condition of an alien. It carries some disabilities (3 Am J2d Aliens §§ 11-35), but on the whole is not an unpleasant or uncomfortable status in the United States.

alien amy. An alien whose nation is at peace with our own. 3 Am J2d Aliens § 2.

Aliena negotia exacto officio geruntur. The business of another should be carried out with particular care.

alienare. To alienate.

aliena res. The property of another.

alienate. The voluntary transfer of property to another by bargain and sale, deed, will, gift,

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or other method effective to pass title. *Butler v Fitzgerald*, 43 Neb 192.

As used in statutes imposing liability for double the value of property of decedent alienated before granting of administration of letters testamentary, the term means wrongfully to transfer property of decedent to another, and that such alienation was a wrongful conversion of the property for which an action of trover was maintainable at common law. Anno: 29 ALR2d 256.

Another meaning of significance in the law is that of estranging or making unfriendly. See **alienation of affections**.

alienated. Conveyed so as to transfer title. Insane; mentally unbalanced. Having been made unfriendly.

alienatio. Alienation.

Alienatio licet prohibeatur, consensu tamen omnium in quorum favorem prohibita est, potest fieri. While alienation may be restrained, yet it may be made with the consent of all those in whose favor it was restrained. The maxim is one of the common law, and the principle of it is no less applicable in equity. See *Seip's Estate*, 1 Pa Dist 26.

alienation. An estrangement, as in alienation of affections; also a mental derangement. A transfer of property in such manner as to transfer title. *Butler v Fitzgerald*, 43 Neb 192.

Within the meaning of a statute requiring the concurrence of both spouses to an alienation of homestead property, a lease has been held to be an alienation. 26 Am J1st Home § 136. Such view is consistent with the view that a lease is a conveyance. See 32 Am J1st L & T §§ 3, 4, 817.

See **inverse order of alienation; restraint on alienation; rule against suspension of power of alienation**.

alienation clause. The condition, stated in a policy insuring against loss of property by fire, windstorm, etc., that the policy shall become void in case of the sale or conveyance of the property, or a change in interest or title to the insured property, without the consent of the insurer. 29A Am J Rev ed Ins § 825.

alienation in mortmain. See **mortmain**.

alienation of affections. The actionable wrong committed against a husband by one who wrongfully alienates the affections of his wife, depriving him of his conjugal right to her consortium, that is, her society, affections, and assistance.

In some American jurisdictions, under Married Women's Acts, a wife is given the same cause of action for alienation of affections that a husband had at common law for the wrong stated above. The action, whether by the husband or the wife, has been modified by statute in recent years, and in some jurisdictions, such as New York, the right of action has been abrogated. 27 Am J1st H & W §§ 519 et seq.

See **criminal conversation**.

alienation office. The public office in London where the fees called the primer fine and the post fine were collected from those who employed the procedure of fine and recovery to effect transfers of land titles.

Alienatio rei praefertur juri accrescendi. The law prefers the alienation of property to the accumulation thereof.

alien declarant. An alien resident of the United States who has declared his intention in the manner provided by law, of becoming a citizen of the United States. *Terrace v Thompson*, 263 US 197, 68 L Ed 255, 44 S Ct 15; 3 Am J2d Aliens § 147.

aliene. Same as **alien**.

alienee. One to whom title is transferred.

alienor. To alienate.

alien friend. A citizen or subject of a nation with which the United States is at peace. 3 Am J2d Aliens § 2.

alienigena. An alien.

alieni generis. Same as **alia generis**.

alieni juris. Same as **alia juris**.

alien immigrants. Aliens arriving in the United States from foreign countries, whether or not they had been previously domiciled in the United States and had temporarily gone abroad with the intention of returning here. *Lapina v Williams*, 232 US 78, 86, 58 L Ed 515, 517, 34 S Ct 196.

alienism. Alienage, that is the condition of being an alien; also, the field in which an alienist practices.

alienist. A doctor of medicine who has made mental diseases, those affecting the mind intellectually, and the moral or spiritual faculties, his special study and practice. *State v Reidell*, 14 Del (9 Houst) 470, 474, 14 A 550. A doctor of medicine qualified by reason of experience, knowledge, and previous opportunities to examine and give his opinion as to the mental condition of a person at a particular time. *People v Norton*, 138 Cal App 70, 31 P2d 809.

alien ne´. One born an alien.

alien nondeclarant. An alien resident of the United States who has not declared his intention of becoming a citizen, in the manner provided by law. *Terrace v Thompson*, 263 US 197, 68 L Ed 255, 44 S Ct 15.

alieno loco. Another place.

alienor. The grantor in a conveyance, one who alienates, that is, transfers ownership to another.

Alien Property Custodian. An officer, appointed pursuant to the Trading with the Enemy Act of 1917 and amendments thereto, to take custody, at the direction of the President of the United States, of the property, corporeal and incorporeal, of an enemy alien not licensed to retain control of his property. 56 Am J1st War § 85.

Alien Registration Act. A federal statute constituting a part of the comprehensive scheme for the regulation of aliens, requiring the registration and fingerprinting of all aliens in the country, those over 14 years of age on their own application and those under 14 years of age on the application of parent or guardian. 8 USC §§ 1301, 1302; 3 Am J2d Aliens § 112.

alien resident. A person who is a citizen of another country but residing in the United States.

See **expatriate**.

alien's duty. Imposts imposed on alien merchants in England.

alien seamen. Seamen who are aliens, whether serving on foreign or American ships. United States v

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New York & Cuba S. S. Co. 269 US 304, 70 L Ed 281, 46 S Ct 114.

alienus. Belonging to another; belonging to another country, an alien.

alienus homo. Another's man, a slave.

alieu. Same as **alleu**.

alighting. The act of a passenger in leaving the conveyance of the carrier. 14 Am J2d Car § 982.

alighting from. A familiar clause in accident insurance policies extending coverage to injuries sustained in accidents occurring in and around motor vehicles. 29A Am J Rev ed Ins § 1247.

alignment. An arrangement in a line; technically, a plan for a highway or railroad.

alii. Others; other persons.

See **et alii**.

alii e contra. See **et alii e contra**.

aliment. (French and Scottish law.) Support, supply of necessities; allowance for support. To support.

alimenta. Items of support and maintenance.

alimented. Having obtained a decree or order for one's support, as in the case of a divorced woman. Edgerton v Edgerton, 12 Mont 122, 29 P 966.

alimentum. Support; alimony.

alimony. An allowance for the support and maintenance of one's spouse, or divorced spouse, made as a substitute for marital support. 24 Am J2d Div & S § 514.

A suit for support of the complaining spouse is one for alimony even though an absolute divorce is not sought in the action. 27 Am J1st H & W §§ 401-403.

Although in the usual sense of the term, alimony does not include support of children, there are instances in which a statutory reference to "alimony" has been held to include the support of a child. 17A Am J Rev ed Div & S § 851. An allowance of \$150 for the support of a wife and two children is alimony payable to the wife and is not to be construed as an award of \$50 to her and \$50 to each of the children. Miller v Miller, 74 App DC 216, 122 F2d 209.

By statute and in some jurisdictions as a matter of equity, alimony is awarded the wife as a successful plaintiff in an action for the annulment of a marriage. 4 Am J2d Annul § 102. In an annulment action, the allowance is of such a sum of money in gross or in instalments as will fairly reasonably compensate a divorced wife for the loss of her support by annulment of the marriage contract. Anno: 20 ALR2d 1412.

A husband may be entitled to alimony in some jurisdictions, but it is only by force of a statute which clearly provides for an allowance to the husband, that he is entitled to an award. 17 Am J Rev ed Div & S § 574.

See **permanent alimony; suit money; temporary alimony.**

alimony ad interim. Same as **temporary alimony.**

alimony in general. An award of alimony to be satisfied by periodic payments of a definite sum for the indefinite future. 24 Am J2d Div & S § 614.

alimony in gross. An award of alimony in one definite sum, whether payable in instalments or in one payment. 24 Am J2d Div & S § 614.

alimony pendente lite. See **temporary alimony.**

A l' impossible nul n'est tenu. No one is bound to perform that which is impossible.

alinement. Same as **alignment.**

alio. Another form of the Latin **alius**, meaning another, other.

alio intuitu. From another point of view.

alio loco. In another place.

alios. Others.

See **inter alios.**

alios acta. Acts or transactions of others.

See **inter alios acta.**

aliqua liter. In any way.

aliquid. Something; somewhat.

aliquid conceditur. Something conceded.

aliquid possessionis et nihil juris. Somewhat of possession, but nothing of right.

aliquis. Someone; anyone.

Aliquis non potest esse judex in propria causa. One cannot be a judge in his own cause.

aliquot. Deriving from the Latin for several, and meaning in modern usage a several part of a larger number, that is, a number which divides a larger number evenly.

alis. An older Latin form of **alius**.

aliter. Otherwise.

aliud. The Latin neuter of **alius**; another thing.

Aliud est possidere, aliud esse in possessione. To possess is one thing, to be in possession another.

Aliud est tacere, aliud celare. It is one thing to keep silent, another to conceal. *Stewart v Wyoming Cattle Ranch Co.* 128 US 383, 32 L Ed 439, 9 S Ct 101.

Aliud est vendere, aliud vendenti consentire. It is one thing to sell and another to consent to selling or to agree to sell.

aliud examen. Another method of trial.

aliunde. From another place or source; independent of.

See **evidence aliunde**; **extrinsic evidence**.

aliunde rule. The rule that a foundation must be laid by testimony aliunde of the misconduct of a juror or jurors before testimony of the jurors themselves will be received to impeach the verdict. 53 Am J1st Trial § 1105.

alius. Another; another person; different.

alive. Having life; existing as a living person.

Although it is ordinarily said that life begins at birth, once a child is born, the law may look back to the time that he was in the mother's womb for

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the purpose of determining his rights. See **in utero matris**.

See words and phrases beginning "live."

all. Sometimes said, where it appears in a statute, to be the most comprehensive word in the language, but said in other cases involving the construction of a statute to be a general, rather than a universal term, to be understood in one sense or another according to the demands of sound reason. 50 Am J1st Stat § 286.

all aboard. A direction to prospective passengers to board a train. Anno: 31 ALR2d 963.

all actions not otherwise provided for. A common provision in limitation statutes which is usually considered to be comprehensive of every form of action, whether real or personal, but held in some jurisdictions not to include special proceedings, probate proceedings, or proceedings for the revocation of licenses. 34 Am J1st Lim Ac § 70.

all-addendum. See **addendum circle**.

all and singular. Each one and all; with no exception.

all cases at law. For the purposes of a guaranty of right to a jury trial, this term means actions and proceedings peculiarly at law, involving predominantly rights and remedies peculiarly legal in character, as distinguished from suits in equity, divorce cases, probate proceedings, admiralty cases, trials by court-martial, special and summary proceedings, whether in regular or special courts, and minor cases in minor courts. 31 Am J Rev ed Jur § 21.

all costs. Including, where the term appears as a condition of an appeal bond, both costs on the appeal and costs in the trial court. 5 Am J2d A & E § 1056.

all damages. The provision in an appeal bond purporting to cover "all damages caused by wrongfully suing out said injunction," the appeal being from an order dissolving an injunction, does not bind the surety for damages sustained in consequence of the injunction being kept in force by the appeal. 5 Am J2d A & E § 1058.

allegans. Alleging.

Allegans contraria non est audiendus. Contradictory statements will not be listened to. *Galbraith v Tracy*, 153 111 54, 38 NE 937.

allegare. To allege; to assert.

Allegari non debuit quod probatum non relevat. Matters which are not relevant, if proved, ought not to be alleged.

allegata. Pledged matters.

allegata et probata. Matters alleged and matters proved; pleadings and proof.

allegatio contra interpretationem verborum. An allegation against the meaning of the words.

allegation. An assertion; a statement of fact in a pleading; a statement of what one can prove; the positive assertion of a fact. *Merrill v Pepperdine*, 9 Ind App 416, 36 NE 921.

The technical name for a pleading in an ecclesiastical court.

allegation of faculties. A wife's statement in a divorce case in ecclesiastical court in which the estate of the husband is set forth as a basis for the allowance of alimony. *Lovett v Lovett*, 11 Ala 763, 771.

allegations upon information and belief. Allegations in an affidavit in the form of statements to the best of the affiant's information and belief, not as of a certainty. 3 Am J2d Affi § 22.

allegation. That which is alleged.

allege. To make an allegation; to state, recite, or charge; to plead.

alleged. Charged; claimed; described; asserted; set forth.

allegiance. The obligation of fidelity and obedience which the individual owes to the government under which he lives, or to his sovereign in return for the protection he receives. 30 Am Jur Internat L § 18.

See **oath of allegiance**.

allegiare. To defend one's own cause; to justify one's own conduct and position by due course of law.

alleging diminution. The designation on appeal of a diminution or lack of completeness in the record. Hooper v Royster, 15 Va (1 Munf) 119, 130.

alleguer. To plead.

all elections. A phrase in a constitution or statute, sometimes referring only to elections at which officers are to be elected, at other times to elections at which officers are to be elected or at which propositions, questions, or amendments to the constitution are to be submitted. 25 Am J2d Elect § 2.

Allen charge. The charge in an instruction approved in Allen v United States, 164 US 492, 41 L Ed 528, 17 S Ct 154, that the jurors should examine the questions submitted with candor and with a proper regard and deference to the opinions of each other.

Allen v. Flood. A celebrated English case decided in 1898, and frequently cited as laying down the rule that the malicious exercise of a definite legal right is not actionable although it results in damage to another person. [1898] A. C. 1.

aller. (French.) To go.

aller a dieu. A term of dismissal.

aller a large. To go at large.

aller al eau. Let him go to the water.

See **hot-water ordeal**.

allergy. Sensitivity of a person in an usually high degree to certain foods, medicines, or particular elements thereof, pollens, or other minute particles carried by the air, reacting with disagreeable, even disastrous consequences.

aller sans jour. To go without day; to adjourn without day. See **adjournment sine die**.

alleu. An allodial estate.

all events test. The test for determining the year in which an item of deduction for income tax purposes accrues, under which a tax is held to accrue when all events have occurred which fix the amount of the tax and determines the liability of the taxpayer to pay it. United States v Consolidated Edison Co. 366 US 380, 6 L Ed 2d 356, 81 S Ct 1326.

alleviare. To redeem by the payment of a fine.

alley. A narrow way in a town or city for the convenience of the owner of property abutting thereon and of the persons who visit him. 25 Am

J1st High § 8. At times, a highway. *Chicago Motor Coach Co. v Chicago*, 337 Ill 200, 169 NE 22, 66 ALR 834. At other times, a private way.

See **bowling alley**; **private alley**.

alleynour. Same as **eloigner**.

alleyway. Same as **alley**.

all faults. Disclaimer of warranty by making sale with "all faults."

all fours. See **on all fours**.

alliance. A banding together; a confederacy; an association between nations, such as The Triple Entente and the Triple Alliance, both being between European nations, which existed prior to World War 1.

Alliances between families are created by intermarriages.

allies. Nations engaged on the same side in a war. Persons united in the pursuit of a purpose or undertaking.

allieu. Same as **alleu**.

aligner. Same as **alloigner**.

all inheritance taxes. Including succession and legacy taxes, as well as inheritance taxes in the narrow sense, where the term appears in a direction in a will for payment of taxes. Anno: 37 ALR2d 85.

allision. The running of one vessel into another vessel which is not under way; technically, to be distinguished from a collision between vessels, both of which are under way.

all matters in difference. Appearing in an arbitration agreement, the phrase refers to nothing beyond matters in relation to the subject referred for arbitration. *Hemingway v Stansell*, 106 US 399, 27 L Ed 245, 1 S Ct 473.

all my money. A comprehensive term standing alone, which may be tempered where it appears in a will by other testamentary language.

So the results upon the question whether it 'includes bank deposits, where it appears in a will, are conflicting. 57 Am J1st Wills § 1354.

See **ally**.

all my property. A very comprehensive term in a will which is construed in the absence of contrary context to include after-acquired property. 57 Am J1st Wills § 1213.

A bequest in such a form is general rather than specific. 57 Am J1st Wills § 1409.

all my worldly goods. A very comprehensive term of bequest which has been construed at times to include real property. *Farish v Cook*, 78 Mo 212.

alloc. An abbreviation of allocatur.

allocable. Distributable. In analyzing accounts, the breaking down of a lump sum charged or credited to one account into several parts to be charged or credited to other accounts. *Fleming v Commissioner* (CA5) 121 F2d 7.

allocare. To allow.

allocate. To allow an appropriate proportion; to apportion; to assign; to allot.

allocatio. An allocation.

allocation. An allowance upon an account in the English exchequer; in more familiar modern usage, an allotment.

allocatione facienda. A writ by which an accountant secured an allowance due him from the English exchequer.

allocato comitatu. An old writ used in outlawry proceedings.

allocatur. Let it be allowed, -an order of a court or judge, allowing or granting something; as, an allocatur allowing a writ of certiorari. *State v Vanderveer*, 7 NJL 38.

allocatur exigent. A writ issued in the process of outlawry.

allocution. The traditional formal inquiry under the common law, which exists by force of statute in American jurisdictions with some variations, to be directed by the court to one convicted of a felony before sentence: -whether the one convicted has anything to say why sentence should not be pronounced against him. 21 Am J2d Crim L § 530. The reason given for the importance attached to this form in England is, that the appellate court may see that the prisoner had an opportunity of moving in arrest, or of pleading a pardon. *State v Ball*, 27 Mo 324, 326.

allod. Same as **allodium**.

allodia. Free lands, that is, lands not held in subordination to a feudal lord.

allodial. The tenure of an estate by an owner in fee simple under the state as sovereign, as opposed to feudal tenure. The dominion is absolute and direct, subject only to escheat in the event of failure of successors in ownership. Allodial tenure is characteristic of the ownership of land in the United States. 28 Am J2d Est § 4.

allodium. An allodial estate; an estate not held under a superior.

allograph. A signature or other writing made for one person by another person; contrasting with autograph.

alloign. Same as **eloigne**.

allonge. A paper attached to a bill or note, or so firmly affixed, as to be a part thereof, upon which an indorsement of the instrument is written. 11 Am J2d B & N § 353.

allopathic practice. The old school and still the most prominent branch of the practice of medicine. The term distinguishes physicians of this school from homeopaths, osteopaths, eclectic, and chiropractors. *Bradbury v Bardin*, 34 Conn 452; 41 Am Jur Phys & S § 85.

allot. To make an allotment.

all other cases not expressly provided for. A common provision in limitation statutes which is usually deemed comprehensive of every action or proceeding in a court of justice wherein a contested question may arise, but sometimes limited to actions as distinguished from special proceedings. 34 AmJ1st Lim Ac § 70.

all others not otherwise herein provided for. Not otherwise provided for in the statute of which the words are a part. 21 Am J2d Cost D § 38.

allotment. A division; a distribution.

See **Indian allotments**.

allotment certificate. A certificate issued to an applicant for shares in a corporation stating the number of shares allotted to him and the due dates and amounts of payments required of him.

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allotment note. A written order drawn by a seaman upon his employer, accepted by the latter, and directing the payment of the seaman's wages in sums, to persons, and at times, specified in the order.

allotment of goods. The assignment by lot of the share of a ship's cargo which each purchaser is to buy.

allotment system. That system or practice under which lands are by treaty allotted to Indian tribes for use as hunting grounds and other purposes. The word allotted is not to be construed or understood in the sense of being parcelled out to the Indians as a favor, but rather in the sense of acknowledging their right to have the lands thus set out to them. *Worcester v State of Georgia* (US) 6 Pet 582, 8 L Ed 508.

allotment ticket. Same as **allotment note**.

allottee. One to whom an allotment is made.

allouer. (French law.) To allow; to grant.

allow. To approve, as to allow a cost bill or claim; to permit or acquiesce in; as to allow animals to run at large. 4 Am J2d Am § 116.

The words "allowed," "acquiesced," and "permitted" imply no inducement or enticement, and should be construed as creating a license. See *Karns v Trostel*, 44 Ohio App 488, 186 NE 405.

allowance. A word of broad and various meanings, ranging from the amount ordered paid to a successful litigant in addition to the stated costs, because of extraordinary difficulty in the litigation, to the amount paid by a parent to a child per week as an encouragement to good conduct and the promotion of thrift in the child. Something granted, as in the rendition of judgment. The recognition of a deduction or an exemption in the assessment of a tax. *Virginia Hotel Corp. v Helvering*, 319 US 523, 87 L Ed 1561, 63 S Ct 1260, 152 ALR 871.

As used typically with respect to the armed forces and veterans, the word refers to benefits of one kind or another in addition to regular pay, such as subsistence, quarters, uniforms, and pensions. *Walker v United States*, 86 App DC 93, 180 F2d 194, 16 ALR2d 1328.

allowance of alimony. See **alimony; temporary alimony.**

allowance of owelty. See **owelty.**

allowance pendente lite. An order for payment or distribution made prior to the termination of litigation, such as an order for temporary alimony or an order for payment of the income from the sum constituting the res in the proceeding, or even a division of a part of the res itself, where it is apparent that enforcement of the judgment or order ultimately rendered will not be jeopardized by such an allowance.

allowance to member of armed forces. A benefit of one kind or another in addition to regular pay, such as subsistence, quarters, uniforms, and pensions. *Waller v United States*, 86 App DC 93, 180 F2d 194, 16 ALR2d 1328.

It is sometimes in the nature of compensation, sometimes akin to reimbursement, but may at other times be entirely unearned; it is affirmative in nature and has no similarity to a statutory exemption. *Waller v United States*, *supra*.

allowance to widow. See **widow's allowance.**

allowed by law. See **fixed by law.**

alloy. An inferior or cheaper metal mixed with another in the coinage of money.

alloynour. Same as **eloigner.**

all prior indorsements guaranteed. A phrase customarily added to the indorsement of the collecting bank.

It is questionable whether the phrase adds anything to the liability of the bank as an indorser. Some authorities limit its meaning to the fact that the payee named actually indorsed the instrument. 11 Am J2d B & N §§ 616, 624.

all property of mortgagor. A term used in defining the property covered by a chattel mortgage, which is sufficient as a description, if accompanied by a designation of the location of the property. 15 Am J2d Chat Mtg § 56.

all-pul mill. A steel rolling mill where the strip is pulled through the rolls and where if the pulling stopped, the power exerted on the strip by the rolls alone would not be sufficient to move the strip through. *Cold Metal Process Co. v McLouth Steel Corporation* (D. C. Mich.) 41 F Supp 487.

all right, title, and interest. Words in a conveyance operative to express whatever title the grantor has, whether an entirety of ownership or an undivided interest. 23 Am J2d Deeds § 289.

"All the right, title, and interest" of a grantor pass under a deed granting the same, even though the phrase is followed by the expression -the same being one half undivided interest in and to the described property," because the words last quoted do not limit the extent of the previous term of conveyance or except out any interest conveyed by such previous term. 23 Am J2d Deeds § 197.

An assignment of patent rights in such terms of designation of the subject matter does not, in the absence of an express agreement or of special circumstances from which a warranty may be implied, carry with it a warranty of validity of the patent. 40 Am J1st Pat § 133.

A court may not read exceptions into a law referring to "all rights." *Wailes v Curators of Cent. College*, 363 Mo 932, 254 SW2d 645, 37 ALR2d 326.

All Saints Day. November 1st, when an annual festival honoring all the saints is celebrated.

all taxes. An expression comprehensive in form, but to be construed in connection with the context in which it appears. Anno: 37 ALR2d 88 et seq.

An exemption from "all taxation," has been held inapplicable to an inheritance, succession, or estate tax. Anno: 47 ALR2d 1003-1005.

all that remains. Such term in a residuary bequest of the subject matter of the bequest is presumptive of an intention of the testator that lapsed legacies and devises shall pass under the residuary bequest. 57 Am J1st Wills § 1449.

all the green, pine timber. A sufficient description of the timber, in a deed of growing timber, where the location upon land is designated. 34 Am J1st Logs § 29.

all the members. A provision of the constitution of a religious society that its affairs shall be managed by the whole congregation, that is, "all the members," does not require the assent of each member to action taken; those members who do not attend a meeting or, if attending, do not vote, must be understood to be willing to be bound by the action

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taken by the members who do attend and vote. 45 Am J1st Reli Soc § 22.

all the real estate. An apt descriptive phrase in a deed where connected with the grantor, e.g. "all the real estate of the grantor in" etc. Anno: 55 ALR 162.

all the rest, residue, and remainder. See **residuary clause**.

all the timber and growth of timber. A sufficient description of the timber, in a deed of growing timber, where location upon the land is specified. 34 Am J1st Logs § 29.

all title and interest. See **all right, title, and interest**.

allure. See **inveigle**.

allurement. An enticement; an attraction which, as in the case of an attractive nuisance, may constitute in law an implied invitation to a child to enter upon the premises. See 38 Am J1st Negl § 144.

allusion. A passing, casual, slight or incidental reference; a hint; a suggestion; an insinuation. *Atchison, T. & S. F. Ry. Co. v Vanordstrand*, 67 Kan 386, 73 P 113.

alluvio. Alluvion.

alluvio maris. Alluvion from the sea.

alluvion. The solid material which is added to land by accretion, that is, by the gradual deposit of such material by water.

Accretion denotes the gradual process which makes the deposit, while alluvion is the term applied to the deposit itself. 56 Am J1st Wat § 476. That which is added to a man's land by alluvion, belongs to him. St. Louis, 1. M. & S. Ry. Co. v Ramsey, 53 Ark 314, 56 Am J1st Wat § 477. Conversely, that which is washed or worn away by the gradual process of alluvion is lost to the owner of the washed or worn parcel or tract. 56 Am J1st Wat § 477.

ally. Verb: To associate with another person for a common purpose; to make a treaty with another nation calling for joinder in an enterprise or in defense against a common enemy. Noun: A person with whom one is associated for a common purpose; a nation with which another nation has by compact or treaty agreed to act. A nation which has joined with the United States in waging a war against another nation or nations.

ally of enemy. As it appears in the Trading with the Enemy Act, the term means nonresidents of the United States who are subjects of an enemy country. 3 Am J2d Aliens § 190.

aim. Old English for soul, apparently a contraction of the Latin **anima**.
See **alms**.

almanac. A compilation of useful data, including a calendar of days, months, and years, astronomical events, weather predictions, geographical, political, governmental, and social facts, and a variety of other useful information. The term is also used for the appendix to the common service book of a church in which the days upon which Sundays or feast days fall are noted in a convenient and readable form.

alme. Same as **aim**.

almesfeoh. See **Peter's pence**.

almner. Same as **almoner**.

almoign. Alms.

almoigne. Same as **almoign**.

almoin. Same as **almoign**.

almoin tenure. Same as **frankalmoigne**.

almoner. An officer charged with the duty of distributing alms.
See **overseers of the power**.

almost wholly of. A tariff statute term meaning that the essential character of the article is imparted by the named material, notwithstanding significant quantities of other material may be present. 21 Am J2d Cust, D etc. § 33.

alms. Donations to relieve the poor.
See **aim**.

alms fee. Same as **Peter's pence**.

almshouse. A house provided by a city, town, or county for the reception and support of the poor; a house appropriated for the poor. *Association for Colored Orphans v City of New York*, 104 NY 581, 12 NE 279, 281.

See **county farm**.

alnage. Ell-measure; a duty on woolen cloth.

alnager. An officer who measured woolen cloth and collected the duties thereon.

alnetum. An alder grove.

aloarius. The holder of an allodium.

alod. Same as **allodium**.

alodarius. Same as **aloarius**.

alode.. Same as **allodium**.

alodes. Same as **allodium**.

alodial. Same as **allodium**.

alodiarius. Same as **aloarius**.

alodium. Same as **allodum**.

alodum. Same as **allodium**.

alone. By one's self; sole.

along a highway. A phrase of frequent appearance in descriptions of real estate.

In the absence of other words or language in a conveyance which indicate a contrary intent, a description of the subject matter of the deed as "along" a highway is sufficient to fix the boundary at the center line of the highway. 12 Am J2d Bound § 51.

alongside. A nautical term, common in charter-parties, meaning that the charterer is to bring the cargo as near the ship as practicable.

along the bank. See **along the shore**.

along the shore. A designation in the description of a boundary line which usually has the effect of excluding the stream itself from the tract bounded. 12 Am J2d Bound § 26.

A. L. P. Abbreviation of **American Labor Party**.

ALR. Abbreviation of **American Law Reports**.

ALR2d. Abbreviation of American Law Reports, Second Series.

See **American Law Reports**.

ALR3d. Abbreviation of American Law Reports, Third Series.

See **American Law Reports**.

already. By or before a time stated or implied. Mes

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sick v Powell, 314 Ky 805, 236 SW2d 897, 27 ALR2d 1341.

als. An abbreviation of **alius**, another, and **alios**, others.

See **et als**.

also. In addition; this too.

alt. An abbreviation of **alter**.

alta proditio. High treason.

altar. A raised platform or table used in religious services, especially in the portrayal of sacraments.

altarage. The profits of a priest.

altaragium. Same as **altarage**.

altar boy. A boy who assists the priest in a church service, especially at mass.

See **acolyte**.

alta via. A highway.

alta via regia. The king's highway.

alta via regina. The queen's highway.

aftenheim. The word is a German one, and means a home for old people. German Pioneer Verein v Meyer, 70 NJ Eq 192, 193, 63 A 835.

alter. Noun: Other; another; the other party. Verb: To change in some respect. Sessions v State 115 Ga 18, 20, 41 SE 259. To make different, as in changing an assessment. Adams v Shelbyville, 154 Ind 467, 57 NE 114.

The word, when applied to numbers, may well include "to increase," or "to diminish," for an increase or a diminution is certainly a change. See People v Sassovich, 29 Cal 480.

See **alteration**.

alteram partem. See **audi alteram partem**.

altera parte. See **ex altera parte.**

alteration. A change of a thing from one form or state to another-that is, making a thing different from what it was, but without destroying its identity. 4 Am J2d Alt of Inst § 1.

The term "alterations" in a lease, which expressly prohibits alterations to be made by the tenant in the buildings demised, means a substantial change; boring a small hole in a wall to permit the passage of electrical wires is not a change within the meaning of the prohibition. 32 Am J1st L & T § 208.

alteration of brand. Changing, defacing, or obliterating the brand on an animal, a criminal offense in states in the large cattle-raising areas of the country. 4 Am J2d Ani § 8.

The statutory offense of changing the brand or mark on an animal to a different brand or mark from what it was before. It is held that altering is to be distinguished from "defacing," which is the obliteration of the mark or brand, and that putting an additional brand to the one already on the animal is an alteration, although the latter brand may not interfere with or change the figure of the first one. *Linney v State*, 6 Tex 1.

alteration of contract. A modification of the terms of a contract with the assent of both parties, in effect a new contract to be supported by a good consideration, except as consideration is made unnecessary by the circumstances of the case. 17 Am J2d Cont § 465.

To alter or amend a contract is to change it as between the original parties and such others only, as have been permitted, by the mutual consent of the parties, to come into the enjoyment of its benefits and privileges; not to compel one of the parties to operate in conjunction with others, and share with them the privileges and benefits of the contract. *Sage v Dillard*, 54 Ky (15 B Mon) 340, 360.

alteration of highway. Widening or narrowing the way or effecting a change of location or route. 25 Am J1st High §§ 106, 107. To be distinguished from a discontinuance whereby a highway is abolished altogether. 25 Am J1st High § 127.

alteration of instrument. A change in the sense or language of the instrument effected by an intentional act performed on the instrument by a party entitled to the instrument.

In the legal sense of the term "alteration of instrument" it does not include an act performed on the instrument by a stranger thereof. 4 Am J2d Alt of Inst § 1.

In order to constitute a forgery, an alteration must be such as to make the instrument speak a language different in legal effect from that which it originally spoke, or which carries with it some change in the rights, interest, or obligations of the parties to the writing. 23 Am J2d 683 Forg § 16.

As to what constitutes an alteration of a will, see *Anne*: 34 ALR2d 626.

See **erasure; obliteration; spoilation.**

altercation. A civil law term for trial by examination of witnesses; in English, a controversy, dispute, or quarrel waged in anger.

alter ego. Literally, the other I, the other self.

For example, during the voyage of a ship, the shipmaster is said to be the alter ego of his principal. See 47 L Ed 773.

alter ego doctrine. Disregarding the corporate entity in furtherance of the ends of justice and treating the corporation and the individual or individuals owning all the stock and assets of the corporation as identical. 18 Am J2d Corp § 14.

alterfoits. Same as *autrefois*.

alter-idem. Another the same; a counterpart.

altering. See **alteration.**

alternat. Rotation, as of the signatures of envoys to copies of a treaty.

alternate. A person appointed to substitute for another in a political convention. *State v Young*, 160 Mo 320, 323, 60 SW 1086.

alternate juror. An extra trial juror selected to attend the trial and to take the place of any one of the jury in case of the latter's illness or other disability during the trial. 31 Am J1st Jury § 128.

alternate valuation method. The valuation of the gross estate of a decedent for estate tax purposes as of a date other than that of his death, usually one year after the date of his death. IRC § 2032(c).

alternatim. Interchangeably.

alternating custody. A division of the custody of a child between divorced parents. 24 Am J2d Div & S § 799.

alternative. The choice of one of two things, courses, or propositions which is excluded by the choice of the other. *Malone v Metes*, (Fla) 109 So 677, 693.

alternative allegations. See **disjunctive allegations.**

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alternative contract. A contract which by its terms may be performed by doing either of several acts at the election of the party from whom performance is due. *Crane v Peer*, 43 NJ Eq 553, 563, 4 A 72, 17 Am J2d Contr § 363.

alternative damages. Contractual provision permitting choice as between stipulated damages and an assessment. 22 Am J2d Damg § 233.

alternative judgment. A judgment which gives an election to the party against whom rendered in respect of the obligation imposed upon and to be satisfied by him. Such a judgment is usually deemed void for want of certainty in determination of rights of the parties. 30A Am J1st Judgm § 57. A true and valid alternative judgment is provided by statutes for replevin actions, the provision being for a judgment in the alternative for the possession of the property or the value thereof. 46 Am J1st Replev § 122.

alternative owners. See **alternative payees; alternative remainders.**

alternative payees. Two or more persons designated in the alternative as payees of a bill of exchange, a promissory note, or United States Savings Bond. 11 Am J2d B & N § 117.

alternative punishment. Fine or imprisonment, not both. 21 Am J2d Crim L § 536.

See **alternative sentence.**

alternative relief. See **prayer for alternative relief.**

alternative remainders. A limitation of more than one estate in remainder after a single precedent estate but under such terms that one takes effect only as the other one does not. 28 Am J2d Est § 216.

alternative remedy. A choice of remedy left open by statute where a new remedy is created by statute without supplanting a remedy previously existing.

alternative sentence. A sentence giving the defendant a choice, such as one in a traffic case giving an option to purchase a liability policy or to have license suspended; such a sentence is void for uncertainty. 21 Am J2d Crim L § 541.

See **indeterminate sentence.**

alternative will. One of two different wills which on the happening of a contingency provided by the testator, is the one *which* is to come into force as his last will and testament. 57 Am J1st Wills, § 671.

alternative writ. See **alternative writ of mandamus; praecipe.**

alternative writ of mandamus. A writ, issued by the court in the beginning of a mandamus proceeding under older practice, which corresponds to a common-law declaration or to a complaint or petition in an ordinary action and usually deemed to be the first pleading in the cause.

In it all the material facts on which the relator relies must be distinctly set forth, so that they may be admitted or traversed, and by the writ the defendant is called on to perform the particular act sought to be enforced, or, by a return, to deny the facts alleged therein, or to state other matters sufficient to defeat the relator's application. 35 Am J1st Mand § 348.

The more modern practice makes use of an order to show cause, permitting this to be in the alternative of performing the act sought to be commanded or showing cause why it should not be commanded. 35 Am J1st Mand § 347.

alternative writ of quo warranto. A writ used in the commencement of an action in quo warranto under the older practice, one of little use in the modern practice. 44 Am J1st Quo Warranto § 70.

alternis vicibus. Alternately.

alterum non laedere. Not to injure another.

alteruter. One of two.

alteruter et quilibet. Each and every.

altius non tollendi. (Civil law.) An easement restraining the height of one's buildings.

altius tollendi. (Civil law.) An easement by which the height of one's buildings was unlimited.

alto et basso. High and low; the whole matter.

See **de alto et basso.**

altum mare. The high sea.

altus. High; deep.

aluminum. A pliable metal which resists corrosion. As a commercial article, aluminum made from an ore called bauxite is little more than seventy-five years (in 1966) of age in the United States. There are also other ores in the United States from which aluminum can be made. Alunite which exists in Utah is one of them. It is said to exist elsewhere in this country. Leucite is another ore from which aluminum can be made. By a more expensive process experts say that aluminum can be made of common clay. United States v Aluminum Co. of America (DC NY) 44 F. Supp. 97.

alumna. A female graduate of a school, college, or other institution of learning.

alumnus. A male graduate of a school, college, or other institution of learning.

alunite. See **aluminum.**

a luy et a ses heires a tous jours. To him and to his heirs forever.

alveus. The bed of a stream or river.

alveus derelictus. (Roman law.) The bed of a stream which has dried up. The owners of the adjacent lands on such a stream divided the old bed of the stream, as in the case of a newly arisen island. See § 274 Dropsie's Mackeldey's Roman Law.

alyener. Same as **alloigner.**

a. m. An abbreviation of "ante meridiem," before noon.

a majori ad minus. From the greater to the less. See **argumentum a majori ad minus.**

amalgamation. See **consolidation.**

Amalphitan Code. A compilation of marine laws of countries surrounding the Mediterranean Sea, made in the eleventh century, A. D.

a manendo. From remaining.

amanuensis. One who copies a written document; one who writes a document from dictation; one who signs the name of another person who is present in the same room, at the direction of the latter. White Eagle Laundry Co. v Slowek, 296 111 240, 129 NE 753.

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ambactus. A vassal; a client.

ambages. Evasions.

ambassador. An envoy; a diplomatic representative of the highest rank.

The words "ambassadors and other public ministers" describe a class existing by the law of nations, and apply to diplomatic agents, whether accredited by the United States to a foreign power or by a foreign power to the United States, and

the words are so used in section 2 of art. 11 and in section 2 of art. III of the United States Constitution. These agents may be called ambassadors, envoys, ministers, commissioners, charges d'affaires, agents, or otherwise, but they possess in substance the same functions, rights and privileges as agents of their respective governments for the transaction of its diplomatic business abroad. Their designations are chiefly significant in the relation of rank, precedence or dignity. See *Ex parte Baiz*, 135 US 403, 34 L Ed 222, 10 S Ct 854.

amber. An old English measure equal to four bushels. A fossil resin substance which is easily polished.

ambidexter. An attorney who has received compensation from both sides; a bribed juror.

ambiguitas. Ambiguity.

Ambiguitas contra stipulatorem est. An ambiguity is resolved against the stipulator.

ambiguitas latens. A latent ambiguity.

ambiguitas patens. A patent ambiguity.

ambiguity. Doubtfulness or uncertainty, especially in the meaning of language arising from its admitting of more than one meaning; duplicity in meaning. *Kraney v Halsey*, 82 Cal 209, 22 P 1137.

A word or phrase is "ambiguous" within the meaning of the parol evidence rule only when it is of uncertain meaning and may be fairly understood in more ways than one. 30 Am J2d Ev § 1069.

See **latent ambiguity**; **patent ambiguity**.

ambiguity on the factum. An ambiguity, not upon the construction, as whether a particular clause shall have a particular effect, but an ambiguity as to the foundation of the instrument, or a particular part of it, for example, whether a testator meant a particular clause to be part of the instrument, or whether it was introduced with his knowledge, or, again, whether a codicil was meant to republish a former or a subsequent will, or whether the residuary clause, or any other passage, was accidentally omitted. 57 Am J1st Wills § 873.

ambiguus. Ambiguous.

ambit. An enclosing line or limit; a boundary line.

ambitus. A going around; an illegal canvassing for office; bribery. In the Roman law, the word signified the practice of trading in government offices.

amblotic. An abortifacient; something used to produce an abortion.

ambodexter. Same as **ambidexter**.

ambulance chaser. A derogatory term applied to an attorney at law who solicits business, particularly accident cases. 7 Am J2d Attys § 42,

ambulatoria. Ambulatory; revocable.

ambulatoria est voluntas defuncti usque ad vitae sopremum exitum. A will is revocable until the last moment.

ambulatory. Mutable; capable of alteration; not fixed.

A will, being ambulatory, confers no right at the time of its execution, and nothing vests thereunder during the life of the testator. Until the death of the testator it is revocable. 57 Am J1st Wills § 15.

ambulatory jurisdiction. A jurisdiction which is transitory, having no fixed situs. State v Carter, 27 NJL 499.

ambush. Noun: 1st, the act of attacking an enemy unexpectedly from a concealed station; 2nd, a concealed station, where troops or enemies lie in wait to attack by surprise; an ambushade; 3rd, troops posted in a concealed place for attacking by surprise. Verb: To lie in wait; to surprise; to place in ambush. Darneal v State, 14 Okla Crim 540, 1 ALR 638, 641, 174 P 290.

Am. Dec. An abbreviation of **American Decisions**.

ameasurement. Same as **admeasurement**.

ameliorating waste. See **meliorating waste**.

ameliorations. Betterments; improvements.

amenable. Obedient; responsible; answerable; liable to be called to account. Miller v Commonwealth, 62 Ky (I Duv) 14, 17.
See **obedient**.

amend. To improve; to make better by change or modification. Sessions v State, 115 Ga 18, 20, 41 SE 259.

amendable. That which is not so defective that the law will not permit it to be amended.

amendable process. Process which is defective but amendable; voidable rather than void, that is, process which, although defective, will support a judgment, once the defect is remedied. 42 Am J1st Proc § 20.

amendatory statute. One which amends an existing statute; not to be confused with a statute which repeals an existing statute.
See **amendment of statute**.

amended pleading. See **amendment of pleading**.

amended statute. See **amendment of statute**.

amende honorable. An apology; also disgrace or infamy imposed by way of punishment, such as appearing in public with hair sprinkled with ashes.

amender. To amend.

amendment. A correction or revision of a writing to correct errors or better to state its intended purpose.
See **modification**.

amendment as of course. An amendment of a pleading made within such time, and in such compliance with conditions imposed by statute or rule of court, that leave of court is unnecessary. 41 Am J1st PI § 289.

amendment by compulsion. An amendment of a pleading compelled by the court where the original pleading is so framed as to prejudice, embarrass, or delay the trial of the action. 41 Am J1st PI § 290.

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amendment of constitution. A process of proposing, passing, and ratifying amendments to the United States Constitution or a state constitution.

amendment of income tax return. Filling omissions and correcting inaccuracies in a return which evinces an honest and genuine endeavor to satisfy the law. *Zellerback Paper Co. v Helvering*, 293 US 172, 79 L Ed 264, 55 S Ct 127.

amendment of judgment. See **modification of judgment**.

amendment of pleading. Correcting errors and omissions in a pleading, changing and supplying allegations, so that the case, so far as possible, may be determined on its real facts. 41 Am J1st PI § 288.

See **amendment as of course; amendment by compulsion; amendment on court's own motion; amendment to conform to proofs; departure in amended pleading**.

amendment of statute. An alteration or change in an existing statute to make it more complete or perfect, or to fit it better to accomplish the object or purpose for which it was enacted, without disturbing the general framework of the statute. 50 Am J1st Stat § 3. The process of proposing and enacting a statute which effects a change or alteration of a prior act, and, if need be, the obtaining of a successful test of the change or alteration upon submission to the people through referendum.

A constitutional provision, that no bill shall be so altered or amended on its passage through either house as to change its original purpose, prohibits only changes during its passage through the legislature, and does not refer to earlier or later statutes. Anno: 158 ALR 423.

amendment on court's own motion. An amendment of a pleading permitted or required by the court without application made therefor. 41 Am J1st PI § 290.

amendment to conform to proof. An amendment of a pleading permitted where the evidence introduced on trial was not admissible under the pleading in its original form and the amendment does not substantially change the cause of action or defense, sometimes known as an amendment to prevent a variance. 41 Am J1st PI § 309.

amends. Satisfaction for an injury.

See **damages**.

amenity. Something on the attractive, pleasant or desirable side of life. As a legal term in particular, the location, view, access to water courses or lakes, etc. which add to the desirability of a tract of real estate. A negative easement. *Chapman v Sheridan -Wyoming Coal Co.* 338 US 621, 94 L Ed 393, 70 S Ct 492.

amens. A person with no mind; an idiot.

a mensa et thoro. From bed and board.

See **divorce a mensa et thoro**.

amensuratio. Same as **admeasurement.**

amerce. To fine or impose a penalty.

amercement. A money penalty in the nature of a fine imposed by statute upon a sheriff or like officer for misconduct or neglect of duty, the object of the statute being to insure promptness and fidelity to duty and to furnish the plaintiff an opportunity to collect in a speedy manner his debt, damages, and costs. 47 Am J1st Sher § 187. A pecuniary penalty prescribed by a court as a punishment for a public offense.

See 4 BI Comm 379. A fine imposed by the court upon an unsuccessful plaintiff for making a false claim. See 3 BI Comm 376.

amerciament. Same as **amercement.**

amerciamenta hominum. An unusual franchise whereby a lord whose men had been amerced in the king's court could petition to have the amercements paid out of the exchequer to him.

amerciamentum. Same as **amercement.**

American. Of the western hemisphere or, more particularly, the United States.

American Airlines. A trade name subject to misuse in unfair methods of competition. *American Airlines v North American Air Lines*, 351 US 79, 100 L Ed 953, 76 S Ct 600.

American and English Annotated Cases. A set of reports of cases with annotations, abbreviated "Ann. Cas."
See **annotation.**

American Arbitration Association. A nonprofit organization maintaining panels of qualified arbitrators and providing administrative services for the arbitration of both commercial and labor disputes.

American Bar Association. See **bar association.**

American clause. Double insurance clause in marine policies. 29A Am J1st Ins § 1563.

American Decisions. An older set of reports of leading cases with annotations, abbreviated "Am. D."

American Empire. The whole of the United States, composed of states and territories. *Downes v Bidwell*, 182 US 244, 261, 45 L Ed 1088, 1096, 21 S Ct 770.

American experience tables. See **mortality tables.**

American Federation of Labor. An affiliation of labor unions, now combined with the former Congress of Industrial Organizations under the abbreviated heading AF of L-CIO.

American Gold Star Mothers. See **Gold Star Mothers.**

American Indians. See **Indians.**

American Jurisprudence. A comprehensive and authoritative modern text statement of American law, state and federal, procedural as well as substantive, under approximately four-hundred-fifty titles, arranged alphabetically, now in part in a second edition, with work continuing on the remaining volumes; known to bench and bar under the familiar abbreviations "Am. Jur." and "Am. J2d.

American Labor Party. A political party organized in 1936, the activities of which were confined to the state of New York.

American Law Institute. An organization of an eleemosynary nature, its primary activity being the clarification of common-law principles, and its most celebrated projects The Restatement of the Law, and the Uniform Commercial Code prepared jointly with the National Conference of Commissioners on Uniform State Laws.

American Law Reports. Reports of selected leading cases decided by state and federal appellate courts,

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cited under the familiar abbreviations "ALR," "ALR2d," and "ALR3d," beginning with cases decided in 1918, continuing with the publication of current cases through the first and second series, published at the present time as the third series, with annotations appended to the reported cases which are exhaustive of authorities on the points annotated and facets of such points.

American Lloyd's. See **Lloyd's association.**

American mortality tables. See **mortality tables.**

American plan. That plan or system for operating a hotel under which meals are provided at regular hours for its patrons, who pay a stipulated sum per day, which includes both meals and room rent. *New Galt House Co. v Louisville*, 129 Ky 341, 11 SW 351. A term once applied to the open shop system in industry. See *Industrial Asso. of San Francisco v United States*, 268 US 64, 75, 69 L Ed 849, 852, 45 S Ct 403.

American Red Cross. See **Red Cross.**

American Reports. An older set of reports of leading cases with annotations.

American State Reports. An earlier set of reports of leading cases with annotations, abbreviated "Am. St. Rep." Sometimes "A.S.R."

American Theory. The fundamental conception of the supreme law, expressed in written form, in accordance with which all private rights must be determined and all public authority administered.

amesnable. Same as **amenable.**

amesner son hoste. To lead his army.

ami. Diminutive for the Latin "amicus." A friend.
See **prochein ami.**

amiables compositeurs. (Canada.) Arbitrators who are so designated in their appointment and are permitted to dispense with the strict observance of those rules of law the nonobservance of which, as applied to awards, results in no more than irregularity.

amicable. Friendly.

amicable compounder. In Louisiana, -an arbitrator whose decision is binding on the parties.

amicable scire facias. The revival of a judgment with the consent of the judgment debtor and without the issuance of a writ. *Lyon v Cleveland*, 170 Pa 611, 33 A 143.

amicable suit. A suit in which all the facts are admitted by the parties, leaving only one or more questions of law for the court to decide. *Belloc v Rogers*, 9 Cal 123. A suit in which, pursuant to prior agreement between the parties, needless expense and delay are eliminated by forgoing insistence upon technicalities and by the admission of facts on the part of either party knowing them to be true. *Lord v Veazie* (US) 3 How 251, 12 L Ed 1067.

amicitia. Friendship between persons or states.

amicus. A friend.

amicus curiae. Friend of the court. One who gives information to the court on some matter of law in respect to which the court is doubtful, the term implying the friendly intervention of counsel to call the court's attention to a legal matter which has escaped or might escape the court's consideration. 4 Am J2d Am Cur § 1. One who interposes in a judicial proceeding to assist the court by giving information, or otherwise, or who conducts an investigation or other proceeding on request of appointment therefore by the court. *Re Ohlhauser's Estate*, 78 SD 319, 101 NW2d 827.

amidships. A nautical term meaning the middle of the length of the load water-line, as measured from the fore side of the stem to the aft side of the sternpost.

amission. A parting with possession; an involuntary loss rather than an abandonment. *Rhodes v Whitehead*, 27 Tex 304.

Amistad Case. A famous admiralty case involving the capture in 1839 by a United States brig of a Spanish vessel aboard which were a large number of negroes who had been kidnapped and enslaved in Africa by Spaniards in violation of the laws of Spain. The negroes mutinied near Cuba, killed the captain, and spared the lives of their captors on condition that the ship should return them to Africa forthwith. Their captors deceived them and brought the ship to New York where it was seized by United States naval authorities. In the libel suit which ensued, the negroes were held to be free and not to be pirates. *United States v The Amistad* (US) 15 Pet 518, 10 L Ed 826.

amita. A paternal aunt.

amita magna. A paternal great-aunt.

amitinus. A cousin.

amittere. To lose.

amittere curiam. To be deprived of the right of coming into court.

amittere liberam legem. To lose his free law; to lose the privilege of a court; to lose the right to testify; to become outlawed. See 3 Bl Comm 340.

amity. Friendship; peaceful relations between persons or nations.

As used in the Federal statute rendering the government liable for depredations committed by Indians whose tribe or nation has been in "amity" with the United States, the word is not a technical term, but must be given its ordinary meaning and signifies friendship, actual peace. Hostility for a single purpose only, as for example, resisting the opening of a military road, may not prevent a tribe from being in amity. See *Leighton v United States*, 161 US 291, 40 L Ed 703, 46 S Ct 495.

Am Jur. Abbreviation of **American Jurisprudence**.

Am. Jur. 2d. Abbreviation of **American Jurisprudence**, Second Edition.

amnesia. Loss of memory.

amnesty. An act of the sovereign power granting oblivion, or a general pardon for a past offense, which is rarely, if ever, exercised in favor of single individuals, but is usually exerted in behalf of certain classes of persons, who are subject to trial, but have not yet been convicted. 39 Am J1st Pard § 6.

See **pardon; reprieve**.

among. Mingled with other things. *Gibbons v Ogden* (US) 9 Wheat 1, 6 L Ed 1. A good indication, when the word appears in a will, of an intent that the beneficiaries shall take in equal shares. 57 Am J1st

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Wills § 1296. Some evidence, in the absence of a contrary showing, that a per capita distribution was intended. Anno: 13 ALR2d 1038.

among the several states. A phrase used to distinguish between commerce which concerns more states than one and commerce confined within one state and not affecting other states. Such distinction pertains to the power of Congress to regulate commerce, it having the power under the commerce clause only as to commerce between the states. 15 Am J2d Com § 3. Commerce in the District of Columbia and the territories of the United States, although within the power of Congress to regulate by virtue of its authority over such areas, is not commerce among the several states. 15 Am J2d Com § 3.

The business of producing stage attractions, including plays, musicals, and operettas, on a multi-state basis, constitutes commerce among the several states. *United States v. Shubert*, 348 US 222, 99 Ed 279, 75 S Ct 277.

amortisement. Same as **amortization**.

amortizable premium. The premium paid for a bond debenture, note, certificate, or other evidence of indebtedness which bears interest and is issued by a corporation, government, or political subdivision, including both registered and unregistered bonds. IRC § 171(d).

Where bonds are purchased by a trustee at a premium, the amount paid as premium 'is commonly amortized by deducting from each interest or coupon payment on the bonds equal instalments sufficient in amount in the aggregate to bring the purchase price of the bonds to par at maturity, paying only the balance of each such payment to the cestui que trust. Such

amortization has been held to be a proper method of accounting for trustees in Massachusetts. *Old Colony Trust Co. v Comstock*, 290 Mass 377, 195 NE 389, 101 ALR 1.

amortizatio. Same as **amortization**.

amortization. Legally, destruction, killing, or deadening, the original use of the term in the law being to place lands in mortmain.

As the term is presently used, it has reference to the gradual extinction of a liability, usually one represented by a bond issue, by regular payments from a fund provided, known as a sinking fund.

amortize. See **amortization**.

amotibilis. Movable.

amotion. A removal, such as the eviction of a tenant or a removal from office.

The term relates to *officers* of a corporation, not to *members*, and is the removal of such an officer from his office, still leaving him a *member* of the corporation. It is distinguishable from "disfranchisement" which only applies to *members* and which destroys or takes away their right of being a member. See *Richards v Clarksburg*, 30 W Va 491, 496, 4 SE 774.

See **eviction; removal from office**.

amount. Quantity. The sum total of two or more particular sums or quantities; the aggregate; the whole quantity; a totality. *Connelly v Western Union Telegraph Company*, 100 Va 51, 669, 40 SE 618. The aggregate of principal and interest.

The value of property for which stock may be issued by a corporation under a statute authorizing the issue of stock for property to "the amount of the value" of the property, is the actual or the fairly estimated value of the property exchanged for the shares of stock delivered in payment. *Kelly v Fourth of July Mining Co.* 21 Mont 291, 53 P 959.

amountant. Ascending.

amount in controversy. The amount or value of the subject matter in litigation according to which the jurisdiction of a court may be limited. 20 Am J2d Cts § 154. A term involved in determining the jurisdiction of a court, either from the standpoint of the minimum amount with which the court can be concerned or a maximum amount which represents the limit of an inferior court's jurisdiction.

As so used, amount in controversy, is determined according to the amount claimed by the plaintiff in his complaint, declaration, or petition, not by the amount as it later appears according to the evidence or as finally recovered by the plaintiff in the verdict, decision, or judgment. 20 Am J2d Cts § 155.

If the demand of the plaintiff is for specific property, rather than a sum of money, the amount in controversy is determined according to the value of the property involved at or near the commencement of the suit. 54 Am J1st US Cts § 105.

amount in dispute. See **amount in controversy**.

amount of loss. In general, the amount for which compensatory damages are awarded. 22 Am J2d Damg § 11. In insurance, the amount of loss suffered by the insured in the destruction of or injury to the insured property.

The amount of the loss is not necessarily the amount for which the insured may recover, since the coverage as to amount may be only partial.

amount of the value. See **amount**.

amount per unit. See **rate**.

amount realized. The sum of money received for property plus the fair market value of goods, merchandise, or other property received in addition to the money. *Crane v Commissioner*, 331 US 1, 91 L Ed 1301, 67 S Ct 1047.

amove. To remove; to take away.

amoveas manus. A writ to restore lands forfeited to the crown.

amparo. A term taken from Spanish law in some American jurisdictions, meaning a temporary patent to public lands. *Trimble v Smithers*, 1 Tex 790.

ampliare. See **amplificatio**.

ampliare jurisdictionem. To enlarge the jurisdiction.

ampliation. A deferment of the rendition of a judgment pending further consideration.

amplification. Same as **ampliation**.

amplificatio. An enlarging; a deferring; an adjournment.

amplifier. A device, familiar in broadcasting, whereby sound is amplified so as to be more audible.

amplius. Among the Roman lawyers, giving more time for the hearing of a case, deferring the case.

amputation. To cut off a member; by surgery.

Am St Rep. Abbreviation of American State Re

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ports, an earlier set of reports of selected cases with annotations.

amtrustio. A confidential vassal.

amusement. Pleasure or diversion.

See **place of amusement**.

amy. Same as **ami**.

an. The indefinite article used in place of "a" where a vowel follows.
See **a**.

an. (French.) Year.

anacrisis. (Civil law.) An inquiry; an investigation.

anaesthesia. See **anesthesia.**

anaesthetic. See **anesthetic.**

anaesthetist. See **anesthetist.**

anagram. The rearrangement of the letters of a word, thereby making another word, for example, making “pat” from “tap.”

anagraph. A register or inventory.

analogous. Having relation to. Comparable in some respects.

analogous arts and uses. (Patent law.) Whether arts or uses are analogous depends upon the similarity of their elements and purposes. If the elements and purposes in one art are related and similar to those in another art, and because and by reason of that relation and similarity make an appeal to the mind of a person having mechanical skill and knowledge of the purposes of the other art, such arts are analogous, and if the converse is true, they are nonanalogous arts. *A. J. Deer Co. v U.S. Slicing Machine Co.* (CA6 Mich) 21 F2d 812.

analogous cases. Cases which are not in point with one another but are closely related so that the reasoning in one may be accepted in the other.

analytical jurisprudence. The school or system of jurisprudence headed by John Austin and Jeremy Bentham depending wholly on analysis, comparison and classification of existing theories rather than upon principles of right and equity.

anaphrodisiac. Something which lessens sexual power.

anarchist. A person who believes in or advocates the overthrow by force or violence of the government of the United States, or of all government or of all forms of law, or the assassination of public officials. *United States ex rel. Turner v Williams*, 194 US 279, 293, 48 L Ed 979, 985, 24 S Ct 719.

anarchy. The absence of government; a state of society where there is no law or supreme power. Political disorder coupled with violence. *Spies v People*, 122 Ill 1, 12 NE 865, 17 NE 898.

anathema. A person or thing cursed; a curse.

a nativitate. From birth.

See **idiot a nativitate.**

anatocism. Compound interest; the charging of such interest.

anatocismus. Compound interest.

Anatomy Act. An English statute authorizing and regulating the study of anatomy and the disposition of dead bodies.

an bellare unquam justum sit. Whether it is ever right to go to war.

ancestor. A predecessor in the family line.

In statutes which provide for descent and distribution, the term embraces both lineals and collaterals. 23 Am J2d Desc & D § 77. Also, for the purposes of an ancestral estate statute, the term "ancestor" usually embraces both lineals and collaterals, 23 Am J2d Desc & D § 77.

ancestral. Pertaining to ancestors.

ancestral action. An action to recover land based upon the seisin or possession of the plaintiff's ancestor.

ancestral estate. An estate the title to which has been acquired by descent, and which, under the common-law rule, at least the common-law rule in England, should be kept in the line of the ancestor by whom it was brought into the family, so that descent of the same is limited to descent to lineal descendants of the intestate or, upon the failure of lineal descendants, to collateral relatives who were of the blood of the first purchaser. 23 Am J2d Desc & Dist § 75.

"There are but two characters of estate known to our jurisprudence. An estate is either ancestral or non-ancestral. In some jurisdictions, the latter is termed 'new acquisition' or 'purchase.' " Gray v Chapman, 114 Okla 66, 243 P 522.

ancestral property. Property acquired by descent. Gray v Chapman, 114 Okla 66, 243 P 522.

See ancestral estate.

ancestrel. Same as **ancestral**.

anchor. A measure equivalent to ten gallons; the instrumentality by which a ship is tied to the bottom of the sea.

anchorage. A toll paid for casting a ship's anchor in port. A place where ships may be anchored.

anchor watch. A ship's lookout comprising either one or two men designated to perform that duty while the ship is at anchor. See O'Hara v Luckenbach S.S. Co. 269 US 364, 371, 70 L Ed 313, 317, 46 S Ct 157.

ancient. In the ordinary meaning of the term, very old, something that has existed for a long time; pertaining to the ancient world, that is, the world as it existed prior to the end of the Roman Empire.

In law, the term "ancient" is not limited to what is generally regarded as very old. Thus, a judgment which is 20 years old is an **ancient judgment**.

ancient boundaries. Trees, stone, and other markers which have been in existence since a time beyond the memory of living man and hence must be established as boundaries by evidence of reputation. 12 Am J2d Bound § 106.

ancient deeds. See **ancient documents**.

ancient documents. An ancient document, within the rule which excepts ancient documents from the requirement of authentication by the testimony of subscribing witnesses or otherwise, applies to documents purporting to be 30 years or more old, which are produced from proper custody and are, on their face, free from suspicion. 20 Am J2d Evi § 932.

ancient enclosure. See **ancient inclosure**.

ancient fence. A fence which has stood for so many years that it is to be taken as a practical location of a boundary, the monuments of the original survey having disappeared. 12 Am J2d Bound § 71.

ancient feud. See **feudum antiquum**,

ancient inclosure. Lands which have been inclosed from the open fields for more than twenty years.
See **ancient boundaries**.

ancient judgment. A judgment which is 20 or more years old, so that there is a strong presumption in favor of its regularity. 30A Am J Rev ed Judgm § 38.

ancient lights. The doctrine that an owner of land acquires a right of action against an adjoining landowner for the stopping of ancient windows by the erection of a structure on his own land applies where the first owner has had an uninterrupted enjoyment of the window for 20 years. 1 Am J2d Adj L § 89.

ancient map. An original map, over 30 years old, found in proper custody, authorized or recognized as an official document, and free on its face of suspicion, is an ancient map admissible to prove the location of a boundary line. 12 Am J2d Bound § 115.

ancient matters. Historical facts of general or public notoriety which date so far in the past that proof thereof other than by reputation is unavailable. 20 Am J2d Evi § 467.

ancient meadow. A meadow which has not been plowed up for twenty years or more.

ancient pasture. Same as **ancient meadow**.

ancient readings. Essays on ancient English statutes.

ancients. The historical characters and other persons who inhabited ancient Egypt, Babylon, Assyria, Greece, Rome, etc. English attorneys who have attained peculiar seniority at the Inns of Court.

ancient serjeant. The eldest of the queen's serjeants.

ancient survey. A survey made by competent authority, recorded or accepted as a public document, produced from proper custody, and of the age of at least 30 years is admissible in evidence as an ancient survey without further verification. 12 Am J2d Bound § 113.

ancient wall. A party wall in use for twenty years or over. 40 Am J1st Part W § 5.

ancient will. A will so old, that is 30 years or more, calculated from the death of the testator, that it is not necessary to call the attesting witnesses to prove the will. 57 Am J1st Wills § 921.

ancient windows. Same as **ancient lights**.

ancient writings. See **ancient documents**.

ancienty. Seniority.

ancilla. (Latin.) A maid servant.

ancillary. Subordinate. Complementing. Auxiliary.

ancillary action. A suit maintainable in a court of equity on the ground that it is ancillary to an action in another court and in aid of the enforcement of rights involved in such action.

The remedies of injunction, receivership, discovery, and perpetuation of testimony are examples of ancillary jurisdiction in equity. 19 Am J2d Equity § 16.

See **ancillary proceeding**.

ancillary administration. Administration on a decedent's estate, granted in pursuance of the laws of a government other than that of the decedent's domicile, for the due collection and disposition of property left by the decedent within the jurisdiction. Re Mitchell's Estate, 97 Ohio App 443, 56 Ohio Ops 357, 127 NE2d 39, 51 ALR2d 1020; 31 Am J2d Ex & Ad § 680.

There being an ancillary administration, the administration at the domicile of the decedent is called the principal administration. 21 Am J2d Ex & Adm § 850.

ancillary administrator. The administrator appointed in an ancillary administration. 21 Am 32d Ex & Ad § 850.

ancillary attachment. The ordinary remedy by attachment invoked in aid of the collection of plaintiff's demand in an action.

In some jurisdictions the execution of a writ of attachment is in effect the commencement of an action, in which case, of course, the attachment is a principal action rather than an ancillary action or proceeding. 6 Am J2d Attach § 11.

ancillary garnishment. The usual remedy of garnishment invoked in aid of the collection of plaintiff's demand in an action.

In some jurisdictions, garnishment is a principal action, the execution of the garnishment being the method by which the action is commenced. 6 Am J2d Attach § 11.

ancillary jurisdiction. The power of a court to hear, adjudicate and determine matters incidental to the exercise of its primary jurisdiction in an action. 20 Am J2d Cts § 100. A distinct department of equity jurisdiction which arose at an early day from the imperfection of the legal procedure, exercised, not to obtain any equitable remedy, nor to establish any equitable right or estate, but to aid in maintaining a legal right, and in prosecuting actions pending or to be brought in a court of law. 1 Pomeroy's Equity Jurisprudence, § 82.

In the federal courts it is invoked (1) to aid, enjoin, or regulate the original suit; (2) to restrain, avoid, explain, or enforce the judgment or decree therein; (3) to enforce or obtain an adjudication of liens upon, or claims to, property in the custody of the court in the original suit. Raftery v Senter (DC Pa) 41 F Supp 807.

The term "ancillary jurisdiction" is also used in referring to jurisdiction exercised by a court of bankruptcy other than that in which the main proceeding is pending. The Bankruptcy Act, expressly confers upon courts of bankruptcy ancillary jurisdiction over persons or property within their respective territorial limits in aid of a receiver or trustee appointed in any bankruptcy proceeding pending in any other court of bankruptcy. Bankruptcy Act § 2 (a) (20); 11 USC 11 (a) (20); 9 Am J2d Bankr § 77. In this connection, the term "ancillary jurisdiction", refers, not to plenary suits which follow the usual procedure of the forum, but to special proceedings in the exercise of summary jurisdiction. 9 Am J2d Bankr § 77.

ancillary letters. Letters of administration issued to an ancillary administrator.

ancillary proceeding. A proceeding which is ancillary to an action in another jurisdiction.

See **ancillary jurisdiction; ancillary proceeding in bankruptcy**.

ancillary proceeding in bankruptcy. A proceeding in a court of bankruptcy entertained in the exercise of the ancillary jurisdiction of such court. 9 Am J2d Bankr §77.

See **ancillary jurisdiction**.

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ancillary receiver. A receiver who has been appointed in aid of, and in subordination to, a foreign receiver for the purpose of collecting and taking charge of the assets of the insolvent corporation in the jurisdiction where he is appointed. Re Stoddard, 242 NY 148, 151 NE 159, 45 ALR 622, 630; 45 Am J1st Rec § 420. To be distinguished from a receiver in a provisional or pendente lite receivership which is in aid of a main or principal action. United States v Kensington, S. & D. Corp. (CA3 Pa) 18'7 172d 709, 27 ALR2d 708.

ancillary receivership. A receivership in aid of another receivership, usually one in another jurisdiction. 45 Am J1st Rec § 3.

See **ancillary receiver**.

ancillary suit. See **ancillary action**.

ancipitis usus. A term familiar in the writings of Grotius in international law, meaning of uncertain use from the standpoint of promoting peaceful relations.

and. A conjunction which, taken by itself, calls for the things or matters conjoined to be considered jointly. 50 Am J1st Stat § 281. A word ordinarily to be interpreted in the copulative, rather than the disjunctive, sense, but which will be interpreted in the disjunctive when necessary to the spirit and intent of the entire contract in which it appears. 17 Am J2d Contr § 283.

In the construction of a statute, the word "and" is construed to mean "or," where such construction is required by the context or is necessary to harmonize the provisions of the statute and give effect to all provisions, to save the statute from unconstitutionality, or to effectuate the obvious intention of the legislature. 50 Am J1st Stat § 282. A similar rule prevails in the construction of municipal ordinances. 37 Am J1st Mon Corp § 187. Also, in construing a will, the court will construe "and" as "or" in order to give effect to what appears to have been the clear intent of the testator. 57 Am J1st Wills § 1154. Similarly, the word "and" in a deed will be construed as "or", where the obvious intention so requires. 23 Am J2d Deeds § 218.

When, in the listing of persons or things in a statute, the conjunction "and" is placed immediately before the last of the series, the same connective is understood to have been placed, in effect, between the persons or things previously listed in the series. 50 Am J1st Stat § 281.

The use of the word "and" or & in joining the surnames of partners in a partnership name without using their initials or Christian names does not create an assumed or fictitious name. 38 Am J1st Name § 24.

and by it. See **whereby**.

and company. An expression frequently appearing at the end of the name of a firm.

These words added to a surname or two or more surnames in sequence in adopting a name for a mercantile establishment or other business does not render the adopted name an assumed or fictitious name. 38 Am J1st Name § 24.

and family. Designating the wife and children of the testator where it appears in a will. 26 Am J1st H & W 74.

and his heirs. Words of limitation when used following the name of a devisee, for example, to A and his heirs. 57 Am J1st Wills § 1430.

The same is true of the words when used in a deed, although such a technical meaning will give way to a practical construction where justice and reason so require. 23 Am J2d Deeds § 215.

and/or. A concocted ambiguity. 17 Am J2d Contr § 283. Something of a monstrosity in the English language, used by draftsmen out of an over-abundance of caution. So indefinite as to render an administrative order inoperative or unenforceable for lack of certainty. 2 Am J2d Adm L § 462.

The expression "and/or" has no proper place in a judgment. 30A Am J Rev ed Judgm § 58. Appearing in a pleading "and/or" has been characterized as an equivocal connective, being neither positively conjunctive nor positively disjunctive. 41 Am J1st PI § 43. Again, the use of the expression "and/or" in an indictment or information is condemned as destructive of the certainty, definiteness, and precision required in criminal pleading. 27 Am J1st Indic § 104. In statutes, however, the use of the expression "and/or" has been considered to have a significance, the view being that the intention of the legislature in using the expression is that the word "and" and the word "or" are to be construed as used interchangeably. 50 Am J1st Stat § 283.

Such usefulness as there is in the use of the expression in a contract lies in its self-evident equivocality. The intention is that the one word or the other may be taken according as the one or the other will best effect the purpose of the parties as gathered from the contract taken as a whole. The term is used to avoid a construction which, by the use of a disjunctive "or" alone, would exclude the combination of several of the alternatives, or, by the use of the conjunctive "and" alone, would exclude the efficacy of any of the alternatives standing alone. 17 Am J2d Contr § 283. In an insurance policy, the expression "and/or" is to receive a liberal construction in favor of the insured, as is the rule in respect to any ambiguity. 29 Am J Rev ed Ins § 262. A negotiable instrument payable to "A and/or B" is payable in the alternative to A, or to B, or to A and B together. 11 Am J2d B & N § 117.

androchia. A dairy woman.

androgyny. A hermaphrodite.

androgynous. Partaking of both male and female sexes.

androgynus. A hermaphrodite.

androlepsia. Same as **androlepsy**.

androlepsy. The practice of holding aliens as hostages in order to compel their nation to do justice.

andromania. Same as **nymphomania**.

androphonomania. A mania for killing men; homicidal insanity.

and so forth. Other things and units of a like kind. 57 Am J1st Wills § 1335. A term obviously having reference to other things, other events, or other persons, but of so little significance in itself that construction must depend upon the context of the instrument, the enumeration and description of matters and things preceding it, and the subject matter to which it is applied. *Muir v Kay*, 66 Utah 550, 244 P 901.

and son. An expression frequently appearing at the end of the name of a firm.

The addition of the words "and son" to a surname in formulating a partnership name does not have the effect of creating an assumed name within the meaning of the statutes which regulate doing

ane. Same as an.

anecius. The first-born; the eldest.

anesthesia. A dulling or complete loss of the sense of pain, caused occasionally by disease but normally produced by an anesthetic for the purpose of performing surgery.

anesthesiology. The science concerned with anesthetics and the producing of the state of anesthesia.

anesthetic. A drug which produces insensibility to pain, such as ether, chloroform, sodium pentothal.

anesthetist. One trained to administer anesthetics.

an et jour. A year and a day.

aneurism. A soft pulsating sac or tumor arising from the preternatural dilation or rupture of the coats of an artery. *Lewis v New York Life Ins. Co.* 4 Hawaii 370, 374.

anew. Over again; de novo.

anfractus judicium. Legal intricacies.

angaria. Compulsory service for the government exacted as a punishment.
See **jus angarie.**

angary. Right of a belligerent to take the property of a neutral for use.

angel. An ancient English coin of the value of ten shillings.

anger. A strong passion or emotion of displeasure or antagonism, excited by a real or supposed injury or insult to one's self or others; wrath, rage, fury, passion, ire, gall, choler, indignation, displeasure, vexation, grudge, spleen. *Morris v Territory*, 1 Okla Crim 617, 99 P 760, 768.
See **passion.**

angild. The legal estimated value of a man or a chattel.

angina pectoris. A disease of the heart, so named from a sense of suffocating contraction or tightening of the chest over the sternum, which causes anguish and fear of sudden death. The disease is marked by severe pain and fainting sensations. The paroxysms come on unexpectedly after irregular intervals. See *Estate of Lee*, 46 NJ Eq 193, 18 A 525, 528.

Anglescheria. The fact of being an Englishman.

Angleterre. England.

Anglia. England.

Angliae jura in omni casu libertati dant lavorem. In every case the English laws are favorable to liberty.

Anglican. Pertaining to the Church of England; a member of that church.

Anglican Church. The Church of England.

Anglice. English.

angling. Fishing; slang expression for seeking to gain a favored position,

anguilde. See **angild.**

anguish. Intense pain of body or mind. *Hancock v Western Union Tel. Co.* 137 NC 497, 49 SE 952.
See **mental anguish.**

anhote. A tax or tribute paid as a prerequisite to the right to vote.

aniens. Null; void.

anient. To make nil; to nullify.

anienter. See **anient.**

anientisement. Waste.

aniline. An oily liquid used in the making of dyes.

aniline dyes and colors, by whatever name known.

A designation familiar in tariff laws, meaning articles commercially known as aniline dyes and colors. *Pickhardt v Merritt*, 132 US 252, 33 L Ed 353, 10 S Ct 80.

anima. (Latin.) Soul.

animal. In law, all animal life other than man. An inferior or irrational sentient being, generally, though not necessarily, possessed of the power of locomotion. In etymology, comprehending all living creatures, whether brutish or human. 4 Am J2d Am § 1.

animal husbandry. The breeding, raising, feeding and the marketing of animals; a course in agricultural schools.

animalia vagantia. Roving animals.

Animal Industry Act. An act of Congress approved May 29, 1884, which prohibits the transportation from one state or territory to another of livestock suffering from contagious diseases. The act also created the United States bureau of animal industry, whose duty it is to collect data on the general subject of communicable diseases and also to adopt such rules and regulations as may be deemed necessary for the speedy and effectual suppression thereof. See 4 Am J2d Ani § 31.

animal of a base nature. A term of the law of property, deriving from the nature of certain animals, such as dogs and cats, as property of a base nature. 4 Am J2d Am §§ 6, 7.

animals domitae naturae. Those animals which are naturally tame and gentle or which by long continued association with man have become thoroughly domesticated and are now reduced to such a state of subjection to his will that they no longer possess the disposition or inclination to escape. 4 Am J2d Ani § 2.

animals ferae naturae. Such animals as are of a wild nature or disposition and so require to be reclaimed and made tame by art, industry or education, or else must be kept in confinement to be brought within the immediate power of the owner. 4 Am J2d Ani § 2.

animals mansuetae naturae. Animals such as a common house pet, once of a wild nature but since tamed. 4 Am J2d Ani § 2.

animo. With a purpose; with intent.

animo cancellandi. With intent to repudiate or cancel.

animo capiendi. With intent to take.

animo custodiendi. With intent to take care of.

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animo defamandi. With intent to defame.

animo derelinquendi. With intent to abandon.

animo differendi. With intent to delay.

animo dominandi. (Roman law.) An intention to control. *Rhodes v Whitehead*, 27 Tex 304.

animo donandi. With intent to make a gift.

animo et acto. By intent and act.

animo et corpore. In mind and body; with mind and body.

animo et facto. The intent coupled with the fact, as in a change of domicil.

animo felonico. With felonious intent.

animo furandi. With intent to steal. The specific intent which is always an essential in larceny. 32 Am J1st Larc §§ 36 et seq.

animo lucrandi. With intent to profit.

animo manendi. With intent to remain.

animo morandi. With intent to delay.

animo non revertendi. With no intention of returning.

animo possidendi. With intent to take possession.

animo recipiendi. With intent to receive.

animo remanendi. With intent to stay away.

animo republicandi. With the intention of republishing.

animo revertendi. The intention of returning.

animo revocandi. With intent to revoke. 57 Am J1st Wills § 459.

animo testandi. With the intention of making a will; with testamentary intent. 57 Am J1st Wills §§ 8 et seq.

animus. The soul. The seat of the spiritual in man.

animus ad se omne jus dicit. Every law is addressed to the spirit of the matter.

animus quo. The intent with which an act was performed.

animus recipiendi. The intention of receiving.

animus recuperandi. The intention of recovering.

animus republicandi. The intention of republishing.

animus restituendi. The intention of restoring.

animus revertendi. The intention of returning. 17A Am J Rev ed Dom §§ 26, 27.

The owner of a dwelling house from which he and his family are temporarily absent, must have quitted the house "animo revertendi" to make unlawful breaking burglary. 13 Am J2d Burgl § 4.

A different rule prevails and a distinction is made between animals *ferae naturae* and such animals as have *animus revertendi*. As to them a temporary departure from the immediate control of their owner does not determine his property rights in them. Whether or not they possess *animus revertendi* depends upon whether or not they are usually in the habit of returning whence they have escaped, as carrier pigeons or hawks in pursuit of prey. 4 Am J2d Am § 19.

animus revocandi. The intention to revoke. Some courts hold that where the revocation of a will has been prevented by the fraud of a person interested therein, and the acts of the testator indicating the *animus revocandi* have been shown by parol, the instrument will be held to be revoked. 57 Am J1st Wills § 459.

animus signandi. Intention to sign.

animus testandi. The intention of making a will. Whether or not an instrument is testamentary in character depends upon the intention of the maker. It is the animus testandi that makes an instrument a will. When the animus testandi is established, the character of the instrument is fixed and it is a will if the other requirements as to form and execution have been complied with. 57 Am J1st Wills §§ 8 et seq.

anker. A ten gallon measure.

ann. Abbreviation for annual, sometimes for annuity; the amount of a minister's stipend due his heir upon his death.

annales. Same as annals.

annals. The year-books; writings of past events; masses conducted during a year for a person deceased.

annatto. An artificial coloring matter sometimes used in the adulteration of milk. St. Louis v Schuler, 190 Mo 524, 89 SW 621.

Ann. Cas. An abbreviation of **American and English Annotated Cases.**

Anne. Queen of England from 1703 to 1714; Princess Anne of England born to Queen Elizabeth and Prince Philip, August 15, 1665; sometimes used in old works for year. See **Statute of Anne.**

annex. Verb: To attach to; to join on; to affix. Noun: A smaller building attached to another building.

annexation. The acquisition of territory by a nation, state, or municipal corporation; the fastening or affixing of one thing to another, the legal significance being primarily concerned with the law of fixtures. 22 Am J2d Fixt § 4.

In order to constitute a thing a fixture, there must be actual or constructive annexation, to the freehold, that is, the land, but regard must also be had to the object, the effect, and the mode of annexation; physical annexation is not alone sufficient. The extent and mode of actual annexation no longer carries much weight except insofar as they relate to the nature of the article itself, the use to which the article is applied, and other attending circumstances as indicating the intention of the party making the annexation, for which latter purpose the mode of annexation is an important factor for consideration. The fact that chattels may be removed and sold for other uses, or that they were not made

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for special adaptation to the building in which they are placed, is not conclusive of the question whether they have become fixtures; nor is the fact that they can be removed without injury to themselves or to the freehold conclusive of the question. 22 Am J2d Fixt § 4.

See **consolidation; constructive annexation, fixture.**

annexation by reference. See **incorporation by reference.**

annexation de facto. An annexation of territory to a municipal corporation under proceedings which are defective as distinguished from wholly unauthorized. 37 Am J1st Mun Corp § 32.

Even an unauthorized annexation, as one under an unconstitutional statute, may by lapse of time ripen into a de facto annexation, the right of a private citizen or taxpayer to complain having been barred by laches. 37 Am J1st Mun Corp § 32.

annexed to the freehold. Fastened to the land.

See **annexation.**

annez. Years.

anniculus. A one year old child.

anniented. Abrogated; set at naught; annulled.

Anni et Tempora. Years and terms, an old name for the Year Books.

anni nubile. The marriageable age of a girl.

anni spatium. Space of a year.

anniversary. A day which recurs annually.

Anno Domini. In the year of our Lord; since the birth of Christ.

annona. Yearly contributions of food for a person's support.

Annotated Cases. A set of reports of American and English cases with annotations, abbreviated "Ann. Cas. "
See **annotation.**

annotation. A concise statement of the holding of a case, appended to a section of constitution or code of statutes, showing the application of such or a similar section in an actual case. A term sometimes applied to the several propositions of law appearing in a section of a digest of case law. A word of art and of the profession for one of the articles in an annotated series of law reports which follows the report of a case of interest and importance and treats a point or points of the case exhaustively on the case authorities.

The best illustration of the meaning of the word in the latter aspect is found in the annotations in **American Law Reports.**

annotatione principis. With the signature of the prince.

announcement of decision. The court's peremptory declaration that he has decided thus and so. The court's expression of his mere intention or opinion as to what the decision shall be is not an announcement of his decision within the rule that a nonsuit cannot be taken after an announcement of decision. 17 Am J Rev ed Dism § 40.

anno Urbis Condita. In the year (753 B. C.) of the founding of the city (Rome), the beginning of the Roman calendar.

annoyance. A discomfort; a nuisance.

annua. A yearly salary; a pension; an annuity.

annual. Of or pertaining to a year; returning every year; coming or happening yearly. *Payne v Gypsy Oil Co.* 129 Okla 18, 263 P 138, 140.

annual assay. A yearly test officially made to determine whether gold and silver coins have been kept up to standard.

annual assessment labor. See **annual labor.**

annual crop. A crop which requires an annual planting or sowing. 21 Am J2d Crops § 2

annual depreciation. A theoretical depreciation of public utility property based upon estimated life of the property. 43 Am J1st Public Util § 129.

annual dividend. Normally, corporate dividends are paid quarterly but in the infrequent case where they are paid annually, the dividend received is known as an annual dividend.

The expression "annual dividend" is most frequently used in reference to dividends on insurance policies. See **dividend on insurance policy.**

annual dividend policy. A policy of life insurance upon which there is an annual distribution of dividend. 29 Am J Rev ed Ins § I 11.

annual dues. Amounts paid annually to a fraternal organization or benefit society to keep in good standing; yearly premiums collected by old-line life insurance company under name "annual dues." *Filley v Illinois Life Ins. Co.* 91 Kan 220, 137 P 793.

annual fee. The periodical fee paid an attorney at law under a general retainer. 7 Am J2d Attys § 230.

annual interest. Interest payable annually. 30 Am J Rev ed Int § 11.

annual labor. A term of the mining law otherwise known as annual assessment labor. *Union Oil Co. v Smith*, 249 US 337, 350, 63 L Ed 635, 641, 39 S Ct 308. 36 Am J1st Min & M § 115. The labor performed under a statute requiring the annual expenditure of a prescribed amount of money on each mining claim for labor and improvements. Labor and improvements within the meaning of the statute are deemed to have been had on a mining claim, whether it consists of one location or several, when the labor is performed, or improvements are made, for its development; that is, to facilitate the extraction of the metals it may contain; though in fact such labor and improvements may be on ground which originally constituted only one of the locations, as in sinking a shaft, or be at a distance from the claim itself, as where the labor is performed for the turning of a stream, or the introduction of water, or where the improvement consists in the construction of a flume to carry off the debris or waste material. *De Noon v Morrison*, 83 Cal 165.

annually. See **per year**; happening every year.

annual meeting. Meeting of stockholders of a corporation. 19 Am J2d Corp § 600.

annual pension. See **pension.**

annual rent. The rent payable for a year's occupancy, usually of farm lands.

annual rest. Apart from a yearly vacation, the expression "annual rest" has a meaning in the law of interest. In charging compound interest to a fiduciary who otherwise will make a profit which a court of equity will not permit, the interest is computed

annually at periods designated as annual rests, at which time the fiduciary is charged with interest and credited with his commissions as well as lawful disbursements during the year. 30 Am J Rev ed Int § 60.

annual revenue. The amount produced in a year by the employment of capital without any impairment of capital. Re Tutorship of the Minors of George M. Ratcliffe, 139 La Ann 996, 72 So 713.

annual turnover. See **turnover**.

annual value. The net annual rental or income which the property ought reasonably to yield.

annual work. See **annual labor**.

annuell. A Scottish term for annual value.

annuelte. Same as **annuity**.

annuity. In the older sense of the term, a yearly payment of a certain sum of money granted to another in fee, for life, or for years. In the modern sense, a right, bequeathed, donated, or purchased, to receive fixed or certain periodical payments, without contingency, either perpetually or for life or a stated period of time, but not including any interest of the annuitant in the principal fund or source from which the payments derive, his interest being only in the payments themselves. Commonwealth v. Beisel, 338 Pa 519, 13 A2d 419, 128 ALR 978; 4 Am J2d Annui § 1.

Typical modern annuities are those payable by insurance companies. 4 Am J2d Annui § 1. The annuity itself is the totality of the payments to be made under the contract. Where the payments are to be made to the annuitant until his death, the annuity is a life annuity. Where the payments are terminable by the voluntary act of the annuitant, the annuity is a term annuity. Bodine v Commissioner (CA3) 103 F2d 982.

Many of the payments called for by retirement plans of businesses and industries are annuities, although referred to as pensions. Annuities payable under retirement plans are not gratuities in the same sense as pensions paid to retired members of the armed forces, since such annuities are, in part, payable by contributions made by the annuitants themselves. Even where the annuitant makes no contribution in specie, the annuity is nevertheless not a gratuity, since it is in a proper sense provided for him as consideration for his services performed. 40Am J1st Pens §3.

An annuity contract is a security within the meaning of the Federal Securities Act. Securities & Exchange Com. v Variable Annuity Life Ins. Co. 359 US 65, 3 L Ed 2d 640, 79 S Ct 618.

See **simple annuity**; **straight annuity**; **refund annuity**.

annuity contract. See **annuity**.

annuity for education. An annuity provided for the education of a particular person. 4 Am J2d Annui § 9.

annuity for maintenance. An annual charge given for the maintenance of a particular person, without more, and ceasing with the life of the person to be maintained. 4 Am J2d Annui § 8.

annuity policy. A contract of an insurance company for the payment of an annuity beginning at a certain age of the annuitant stated in the policy, in consideration of a single premium or annual premiums payable by the annuitant. 4 Am J2d Annui § 1.

annuity tax. An annual tax levied in Scotland for the support of ministers of the gospel.

annul. To nullify; to set at naught; to make void; to reduce to nothing.

"The word is not a technical word and there is nothing which prevents the idea conveyed by it from being expressed in equivalent words." *Woodson v Skinner*, 22 Mo 13, 24.

annulment. The act of annulling or making void.

annulment of marriage. The judicial determination of the nullity of a marriage for causes existing at the time of the marriage solemnization. 4 Am J2d Annul § 1.

Annulment differs from a divorce in that it is not a dissolution of the marriage but a judicial declaration that no marriage has ever existed. *Callow v Thomas*, 332 Mass 550, 78 NE2d 637, 2 ALR2d 632.

annuo reditu. A writ under old English practice for the recovery of an annuity.

annus. A year.

annus deliberandi. The year which the law of Scotland gives to the heir to determine whether or not he will take his inheritance.

annus, dies et vastum. Year, day and waste.

annus inceptus. The beginning of a year; the same as the completion in computing age.

annus inceptus pro completo habetur. The beginning of the year is considered to be the completion of it.

annus luctus. (Civil law.) The year of mourning, during which the widow could not lawfully remarry. See 1 Bl Comm 457.

annus utilis. A year of advantage.

annuum. (Roman law.) An annuity; a yearly pension or salary.

annuus reditus. An annuity; an annual rent.

anomalous. Something very unusual; something which cannot be related to anything in the ordinary course of events.

anomalous plea. Equity terminology for a plea which combines affirmative and negative elements. 27 Am J2d Eq § 204.

anon. Abbreviation of **anonymous**. Adverb: In a short time.

anonymous. Without a name.

anonymous case. A reported case in which the names of the parties are omitted.

another action pending. See **action pending; plea of another action pending.**

anoyer. To annoy.

anoysance. Same as **annoyance**.

ansel. See **auncel weight**.

ansement. Similarly; likewise.

answer. Verb: To reply; to assume liability, as to answer for the debt of another; in pleading, to make defense by negating the allegations of the plaintiff or interposing affirmative defenses. Noun: The reply to a question, as in answering interrogatories in a deposition; the pleading in response to a com

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plaint, declaration or petition, otherwise known in many jurisdictions as a plea, which either denies the allegations of the complaint, declaration, or petition or interposes affirmative matter intended to defeat the action or delay it. 41 Am J1st Pl § 115.

Under older concepts of equity pleading, now almost entirely abrogated by statute, an answer, in addition to being a pleading, served as a discovery and constituted evidence of the facts stated therein. 19 Am J2d Eq § 264.

In admiralty proceedings, the answer is that pleading of a defendant which corresponds with the plea in an action at common law; it must make response to the matters alleged in the libel in the same consecutive order. 4 Am Jur 2d Adm § 179.

See **counterclaim; cross-action; cross-complaint; general denial; sham answer; supplemental answer**. 4 Am J2d Adm § 179.

answerable. Liable to pay damages.

answer in bar. A defensive pleading interposing affirmative matter intended to defeat the action, as distinguished from a plea intended to delay the action. 41 Am J1st Pl § 115.

answering service. See **telephone answering service**.

answer over. See **pleading over; respondeat ouster**.

answer to writ. See **return to writ**.

antagonistic. Combating; contending, or acting against. State v Brannon, 86 Mont 200, 283 P 202, 67 ALR 1020.

antapocha. A signed acknowledgment of a debt, by which the debtor is bound.

ante. Before.

ante bellum. Before the war.

antecedens. Antecedent.

antecedent. Preceding; going before.

See words and phrases beginning "**pre-existing**."

antecedent debt. A debt previously contracted, whether or not due. Fletcher, Appellant, 136 Mass 340, 342. A debt once binding which has become unenforceable by operation of law, without release or discharge by the obligee. 17 Am J2d Contr § 130.

antecessor. An ancestor; a predecessor in title.

ante-date. To date an instrument as of a day prior to its actual execution; to precede in point of time.

ante exhibitionem billae. Before suit is filed.

ante-factum. Something done previously; a former act.

antejuramentum. An oath required of the plaintiff that he would prosecute, and of the defendant, that he was innocent.

ante litem. Before suit.

ante litem contestatam. Before the trial of the case.

ante litem motam. Before the commencement of the suit, such being a test of admissibility of declarations on the theory that at such time the declarant had no motive to distort truth. 29 Am J2d Evid § 605.

ante meridiem. Before noon.

ante-mortem. Before death; immediately before death, as an ante-mortem statement.

antenatal. Before birth.

antenatus. A person born prior to a great event; a person born in the American colonies prior to the revolutionary war. Dawson's Lessee v Godfrey (US) 4 Cranch 321, 2 L Ed 634.

ante-Nicene. Prior to the year 325 A. D. when the first general council met at Nicea in Asia Minor and promulgated the Nicene creed.

antenna. Wires used to receive electromagnetic waves for conversion into sounds or pictures, by means of which communication by radio and television has been made practical.

While judicial notice has been taken of the custom of householders to use outside antennae for radio reception (St. Louis Park v Casey, 218 Minn 394, 16 NW2d 459, 155 ALR 1128), it should be equally well known that many radios and television sets have built-in antennae.

antenuptial. Before marriage.

antenuptial agreement. See **antenuptial contract**; **antenuptial settlement**.

antenuptial conception. Conception resulting from coition prior to marriage. 10 Am J2d Bast § 13.

See **antenuptial pregnancy**.

antenuptial contract. A contract made between a man and a woman in contemplation of their marriage to one another.

See **antenuptial settlement; companionate marriage.**

antenuptial conveyance. A conveyance made by husband or wife before marriage. 25 Am J2d Dow § 60.

antenuptial pregnancy. Pregnancy prior to marriage, a ground for annulment where the pregnancy existed at the time of the marriage and was caused by one other than the husband; also a ground for divorce in some jurisdictions. 17 Am J Rev ed Div & S § 145.

See **antenuptial conception.**

antenuptial settlement. A contract or agreement between a man and woman in anticipation of their marriage by which they make an arrangement as to property then owned by one or both, sometimes varying substantially property rights which otherwise would arise upon the marriage by operation of law, even superseding the effect of statutes on property rights. 26 Am J1st H & W § 275.

ante occasum solis. Before sunset.

ante omnia. Before all other things.

antestari. To subpoena a witness.

anthracnose. A deleterious fungus.

anthracosis. See **pneumoconiosis.**

anthrax. An infectious and usually fatal disease of animals, especially sheep and cattle, and occasionally man. Men who become its victims are usually those engaged in handling wool, hides or animals that were infected. The disease may be acquired either by inhaling the bacteria or by inoculation through an abrasion of the skin. The latter is the most usual way. Anno: 20 ALR 7.

anthropometry. Measurement of the human body, such being an important feature of anthropology and was at one time advanced as a means of identifying persons or the bodies of deceased persons. The latter aspect of the science has been largely supplanted by fingerprinting.

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antichresis. A pledge of immovable property, comparable to a mortgage. 41 Am J1st Pldg & Col § 2; 36 Am J1st Mtg § 12.

anticipate. To expect; to foresee; also to forestall. In pleading, to negative matters which the pleader's adversary may set up.

anticipatio. Anticipation.

anticipation. Expectation; foreknowledge. The principle by which negligence is determined on the basis that an ordinary, careful, and prudent man would have foreseen the occurrence of injury. Bell Lumber Co. v Bayfield Transfer R. Co. 169 Wis 357, 172 NW 955, Prematurity.

anticipation of children. Anticipation of birth of child.

An essential condition of liability under the doctrine of attractive nuisance is that there must have been ground for anticipating the presence of the injured child, since, unless the presence of the child is reasonably to be anticipated, the duty of taking precautions for its safety does not arise. 38 Am J1st Negl § 145.

anticipation of defense. Allegations in the complaint, declaration, or petition of the plaintiff which are addressed to matters which it is anticipated the defendant will allege as a defense. 41 Am J1st Pl § 87.

anticipation of device. In the law of patents, the essential element of novelty of invention is lacking where the invention was anticipated. Anticipation is established where it appears that at the time of the invention in dispute there was in use a process or instrumentality which was the equivalent thereof, similar thereto, or of substantially the same character. 40 Am J1st Pat § 26. To constitute an anticipation, the prior device must be sufficiently full, clear, and exact to enable persons skilled in the art to construct or practice, without the exercise of further inventive skill or experiment, the invention described in the subsequent patent. See *General Electric Co. v De Forest Radio Co.* (DC Del) 17 F2d 90.

anticipation of income. Pledging income or revenue to accrue. 41 Am J1st Pldg & Col Security § 8. Certificates, bonds, or other instruments of indebtedness to be paid by appropriation of revenues and taxes to accrue in the future. 38 Am J1st Mun Corp § 441.

anticipation of injury. See **anticipation; apprehension of injury.**

anticipatory breach. A breach of contract committed before the time for performance has arrived, being the outcome of words or acts evincing an intention to refuse performance in the future, that is words or acts in repudiation or renunciation of the contract. 17 Am J2d Cont §§ 448, 449.

A good illustration of the application of the doctrine appears in the law of sales and contracts to sell. 46 Am J1st Sales § 194.

anticipatory nuisance. A nuisance which will necessarily result from an act or thing, although no injurious consequences are presently apparent. 39 Am J1st Nuis § 151.

anticipatory repudiation. A positive statement to the promisee or other person having a right under a contract, indicating that the promisor will not or cannot substantially perform his contractual duties. Restatement, Contracts, § 318; *Hawkinson v Johnston* (CA8 Mo) 122 F2d 724, 137 ALR 420.

anti-communist affidavit. An affidavit required by statute of a public officer, schoolteacher, or police officer, negating membership in the Communist Party or adherence to the principles of such party.

anticonstitutional. Unconstitutional; in violation of the constitution.

Anti-Dumping Act. A federal statute intended to prevent sale of foreign merchandise at less than fair value. 21 Am J2d Cust D etc. § 15.

antient. Same as **ancient**.

anti-featherbedding laws. Statutes directed against the exaction of compensation for services not to be performed. 31 Am J Rev ed Lab § 261.

antigraph. A copy of a written instrument.

anti-injunction acts. Statutes prohibiting injunctions in labor disputes.

anti-lapse statute. A statute intended to prevent the lapse of a legacy or devise by providing, in effect, that, in the event of the death of the legatee or devisee prior to the testator, the legacy or devise shall not lapse but shall take effect as if the death of the legatee or devisee had occurred immediately after the death of the testator, unless a contrary intention shall appear by the will. 57 Am J1st Wills § 1433.

anti-molestation clause. See **molestation clause.**

antinomia. A real or apparent contradiction in a statute.

Anti-Okie Law. A California statute which prohibited anyone from assisting non-resident indigent persons to enter the state.

The statute was held unconstitutional as imposing an unconstitutional burden upon interstate commerce. *Edwards v People of State of California*, 314 US 160, 86 L Ed 119, 62 S Ct 164.

Anti-polygamy Law. The Edmunds Anti-polygamy Law passed by Congress in 1882 providing for the punishment of polygamy and also the act of cohabitation with more than one woman at the same time. 10 Am J2d Big § 5.

antiqua custuma. Ancient custom; statutory duties on wool and leather.

See **antiquity of custom.**

antiquare. (Roman law.) To restore or preserve the old law.

Antiqua Statuta. English statutes from 1189 to 1327.

antiquation. (Roman law.) The repeal of a law.

antiquity. The remote past.

antiquity of custom. Under the English rule, a custom existing since 1189, the commencement of the reign of Richard 1, which is accepted as the beginning of time of legal memory; in the United States, the element of antiquity exists if it shall have existed from time immemorial. The element of antiquity, however is no longer essential in establishing a custom with the force and effect of law, the modern view being to accept the custom as binding if it shall have existed a sufficient length of time to have become generally known and to warrant the conclusion that the contract or other transaction in question was made in reference to the custom. 55 Am J1st Usage & C § 5.

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antiquum dominicum. Ancient demesne.

Anti-racketeering Act. A statute to prevent and punish racketeering, that is protecting trade and commerce against interference by violence and threats and checking the levy of blackmail upon business, particularly upon small shops where racketeering appears under the guise of collecting pay for services rendered. 18 USC § 420a-e; Anno: 138 ALR 812.

antithetarius. A person seeking to escape punishment for a crime by charging his accuser with having committed it himself.

antitrust acts. Statutes, a prime example of which is the Federal Antitrust Act, which prohibit all contracts, combinations, and arrangements in the form of trusts, pools, or otherwise, among individuals, partnerships, and corporations, which operate to establish or maintain a monopoly in the manufacture or production, or sale of any commodity of general use in the jurisdiction, or which are in restraint of trade. 36 Am J1st Monop etc. § 119.

See **Clayton Act; Sherman Antitrust Act.**

antitrust affidavit. A verified statement required by statute in some states of corporations doing business in the state. Such statement must be filed annually with the secretary of state and must disclose any connection of the corporation with combinations, pools, trusts and like combinations in restraint of trade or commerce. 36 Am J1st Monop etc. § 123.

anti-vivisection society. An organization, qualifying as a charitable organization, the purpose of which is to oppose the conducting of experimental surgical operations upon living animals. 15 Am J2d Char § 88.

antrustio, A confidential vassal.

anubendo. From covering.

anuels livres. The Year Books.

anus. The opening at the lower extremity of the alimentary canal.

anute. Same as **annuity.**

any. A flexible word.

In its broad, distributive sense, the sense in which the word is frequently used, it may have the meaning of "all," "every," or "each one of all." Its meaning is often restrained, limited, or influenced by the subject matter or manner in which it is used. It may mean "one indefinitely out of an indefinite number." When used in a statute, it should be so construed as to make its meaning comport with the general scheme of the statute in which it is used. Anno: 143 ALR 1054.

The word has been construed by some authorities to mean an indefinite number, as in the case of a stipulation in a promissory note that an indorser shall not be released by any extension of time. 11 Am J2d B & N § 943.

The word "any", used in a will, should be given a construction in context with other words used in the bequest, rather than a precise meaning doing violence to the testator's intention. Re Scheyer's Estate, 336 Mich 645, 59 NW2d 13, 38 ALR2d 835, construing devise of "any home in which we are residing at the time of my death".

any bank, banker or trust company. A sufficient designation of a person to constitute a special indorsement on a negotiable instrument. 11 Am J2d B & N § 361.

any corporation. Either a domestic or a foreign corporation. 23 Am J2d For Corp § 189 (involving terms of statute conferring power of eminent domain).

any covenant. Either an express or an implied covenant. Cole Petroleum Co. v United States Gas & Oil Co., 121 Tex 59, 41 SW2d 414, 86 ALR 719.

any degree under the influence of intoxicating liquor.

Intoxication in some substantial degree. Anno: 13 ALR2d 1003 (construction of clause in accident insurance policy.)

any election. Comprehensive of all elections, primary elections as well as general elections. 30 Am J Rev ed Intox L § 249 (construction of statute prohibiting the sale of intoxicating liquors during the hours of a day when an election is being held.)

anyent. Same as **anient.**

anyer. Same as **annoyer.**

any person interested in the event of a suit. Having reference to a present, certain, and direct interest, so that the person will either gain or lose by the direct, legal operation and effect of the judgment of the court, or the record of the case be legal evidence for or against him in another action. 58 Am J1st Witn § 288.

any time. From time to time; an indefinite time; a reasonable time. On demand. 52 Am J1st Time § 32.

See **at any time.**

any vessel. Every description of watercraft used, or capable of being used, as a means of transportation on water. 12 Am J2d Boats § 16.

anz. Same as **annez.**

A. P. Abbreviation of **Associated Press.**

ap. A prefix used in certain ancient Welsh surnames, such as David ap Thomas (Bibithe's Case, 4 Coke, 43) signifying "son of; - sometimes abbreviated a, as in John a Gaunt, and having the same significance as "o" in certain Irish surnames, as in O'Neill.

a palatio. From palace. The word Palatine was thus derived because the owners of counties palatine had regal rights as fully as the king had in his royal court. See 1 Bl Comm 117.

apanage. Same as **appenance.**

apares. Peers.

apartment. A suite in an apartment house of which the occupant acquires exclusive possession. 29 Am J Rev ed Innk § 8.

apartment hotel. A building which contains apartments not furnished with cooking facilities, the proprietor usually maintaining a restaurant for the convenience of his guests and furnishing other services to them. 29 Am J Rev ed Innk § 8.

apartment house. A multiple dwelling, divided so as to make independent suites for occupancy by a single person, two or more persons, or even a family of some size. 29 Am J Rev ed Innk § 8. A building arranged in several suites of connecting rooms, each suite designed for independent housekeeping, but with certain mechanical conveniences such as heat, light, or elevator service furnished in common to all the occupants of the building. Konick v Champneys, 108 Wash 35, 183 P 75, 6 ALR 459, 463.

apasatio. A contract.

a patre. From his father.

apeaus. Same as **appeaux.**

apennage. Same as **appenage.**

aperire. To open; to unseal.

aperta brevia. Open or unsealed writs, as distinguished from sealed writs, which were called close writs.

aperta luce. See **in aperta luce.**

aperte. Same as **apertus.**

apertment. Openly; unsealed.

apertum. See **feudum apertum.**

apertum factum. An overt act.

apertus. Open; patent; unsealed; not close.

apex juris. An extremity or subtlety of the law. *Hinsdale v Miles*, 5 Conn 331, 334.

The plural is **apices juris.**

apex of vein. A mining-law term for the uppermost edge of the vein, or the course thereof, in place, at or near the surface of the earth.

This edge or apex is, of course, irregular. It may be higher at one place within the boundaries than it is at another; but mere elevation of the upper edge of the vein at different points within the location is of no moment. *Anno: I ALR 418.*

aphasia. A mental infirmity which may exist while the mental faculties of judgment, memory and understanding remain unimpaired, and which is marked by the inability of the victim to select and use proper words to express his ideas. A person suffering from the malady is not necessarily a person of unsound mind. *Re Comfort*, 63 NJ Eq 377, 380.

aphonia. Loss of voice.

apices juris. Extremes; such can not be considered to be the law. *State ex rel. Spillers v Johnston*, 214 Mo 656, 113 SW 1083.

The extremity of justice is injustice; right too rigid hardens into wrong. *Caldwell v Ryan*, 210 Mo 17, 108 SW 533.

apices litigandi. Extremes of the law.

apocae. A receipt for payment.

apochae oneratoriae. Bills of lading.

apocrisarius. A messenger; an ambassador.

apocrisiarius. Same as **apocrisarius**.

apograph. A copy.

apographa. An inventory.

apoincter. To appoint.

apostare. To break; to violate.

apostare leges. To break the laws.

apostasy. A break with, or an abandonment of, a faith previously held, especially a religious faith, and even more particularly, the Christian faith.

apostata capiendo. A writ for the seizure of an apostate.

apostate. A person guilty of apostasy.

a posteriori. From a later or subsequent aspect or point of view.

apostil. A marginal note on a document.

apostiler. To make marginal notes.

apostille. Same as **apostil**.

apostle. A condensed statement of a case transmitted by a lower court to a higher one.

See **apostles**.

apostles. Letters granted to an appellant in admiralty stating that the record will be transmitted from the lower court to the higher one; the twelve disciples and other early, valiant, and faithful believers and teachers of Christianity; a preacher or missionary; the 12 high officials of the Mormon Church.

Apostles' Creed. The creed universally adopted by Christians about 500 A. D.

apostoli. Same as **apostles**.

apostolical notary. An ecclesiastical officer charged with the duty of transmitting the orders of the papal see.

apothecary. A druggist or pharmacist. 25 Am J2d Drugs § 4.

app. An abbreviation of **appellate**.

appanage. Same as **appenage**.

apparage. Rank; nobility; quality.

apparance. Same as **appearance**.

apparator. Same as **apparitor**.

apparatus. A generic word of most comprehensive signification, implying a full collection or set of implements or utensils for a given duty, but hardly extending to include complicated pieces of machinery. 31 Am J2d Exemp § 63.

See **implements**.

apparel. See **wearing apparel**.

apparent. Clear, or manifest to the understanding; plain; evident, obvious; appearing to the eye or mind. *Milliken v McKenzie* (Tex Civ App) 285 SW 1110, 1111.

apparent agent. One who, with or without authority, reasonably appears to third persons, as a result of statements, conduct, lack of ordinary care, or other manifestations of the principal's consent, to be acting with authority. Restatement, Agency 2d ed § 8.

apparent authority. That authority which, though not actually granted, the principal knowingly permits his agent to exercise, or which he holds him out as possessing. *Ulen v Kneettle*, 50 Wyo 94, 59 P2d 446, 111 ALR 565.

apparent authority of insurance agent. Authority which, although not actually granted, the insurance company knowingly permits the agent to exercise, or which it holds him out to the public as possessing. 29 Am J Rev ed Ins § 146.

apparent danger. A danger which is capable of being seen or otherwise comprehended through the medium of the senses; one as well known to a person injured thereby as to the owner of the premises upon which it exists. *Martin v Brown*, 56 Idaho 379, 54 P2d 1157.

apparent easement. An easement that is open and visible, such as a pathway or road, or one that is readily ascertainable, even though not visible, such as a drainpipe under the surface into which water is conducted from a roof. 25 Am J2d Ease § 8.

apparent error. See **error apparent**.

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apparent good order and condition. A term in a bill of lading descriptive of the goods upon delivery to the carrier. 13 Am J2d Car § 285.

The issuance by a carrier of a bill of lading or shipping receipt which acknowledges receipt of the goods in "apparent good order" generally creates a presumption or prima facie case in favor of the shipper or consignee although the form and limits of this presumption or prima facie case are difficult to define with precision. Anno: 33 ALR2d 872.

apparent heir. See **heir apparent**.

apparent jeopardy. The status of the defendant in a criminal case on trial before a competent court and a jury duly empaneled and sworn.

His jeopardy is real unless it shall subsequently appear that a verdict could never have been rendered, by reason of the death or illness of the judge or a jurymen, or that after due deliberation the jury could not agree, or by reason of some other like overruling necessity which compels their discharge without the consent of the defendant. *Cardenas v Superior Court of Los Angeles County*, 56 Cal 2d 273, 14 Cal 657, 363 P2d 889, 100 ALR2d 371.

apparent law. See **lex apparens**.

apparent maturity. The time when a negotiable instrument on its face appears to be due.

apparent servitude. See **apparent easement**.

apparere. To appear.

appares. Peers.

apparitio. An appearance.

apparitio in judicio. An appearance in court.

apparlement. Resemblance; probability.

apparura. Furniture; implements.

app. ct. Abbreviation of appellate court.

appeach. Same as impeach.

appeacher. An accuser.

appeachment. Same as impeachment.

appeal. Any form of appellate review other than by one of the extraordinary writs. 4 Am J2d A & E § 2. Generally regarded as a continuation of the original suit rather than as the inception of a new action, confined normally to consideration of the record which comes from the court below, with no new testimony taken or issue raised in the appellate court. 4 Am J2d A & E § 2.

To revert to a terminology arising from distinctions that are rarely recognized in modern practice, an appeal brings up questions of fact as well as of law, but upon a writ of error only questions of law apparent on the record can be considered, and there can be no inquiry whether there was error in dealing with questions of fact. *Behn, Meyer, & Co. v Campbell & Go Tauco*, 205 US 403, 407, 51 L Ed 858.

In the Roman law, to appeal (*ap-pe-lá're*) is to resort to court; to sue.

appealability. The question whether a case is procedurally apt, that is ripe, for appeal. 4 Am J2d A & E § 47.

appealable. That which may be taken before a higher court for review, as an appealable order; capable of being subjected to an appeal of felony.

"Appealable" in its proper sense denotes susceptibility to direct appeal, as distinguished (1) from "reviewable" -that is, open to consideration by the appellate court on the record as made up for appeal from the judgment-and (2) from being appealable in the discretion of the trial judge. *Collins v Miller*, 91 App DC 143, 198 F2d 948, 37 ALR2d 746. Anno: 37 ALR2d 753.

appealable interest. An interest in a judgment or order which is direct, immediate, pecuniary, and substantial.

More specifically, a party has an appealable interest only when his property may be diminished, his burdens increased or his rights detrimentally affected by the order sought to be reviewed. If his interest or right in and to the subject matter ceases pendente lite, by conveyance, assignment, or otherwise his appealable interest thereby expires, however prejudicial the judgment may be to another. Furthermore, the right invaded or the injury sustained must be subsisting and immediate, not one arising as some possible, remote, unforeseen consequence. *Re Michigan-Ohio Building Corp.* (CA7 Ill.) 117 F2d 191.

appealable judgment or order. A judgment or order subject to review in appellate proceedings.

Ordinarily, but not universally, the term refers to a judgment or order of court rather than an order rendered in chambers. 4 Am J2d A & E § 19.

appeal bond. Security furnished in perfecting an appeal for the benefit of other parties to be affected. 4 Am J2d A & E § 323.

appeal in forma pauperis. See **in forma pauperis**.

appeal of death. See **year and a day**.

appeal of felony. In older times in England, an accusation by a private subject against another, for some heinous crime, demanding punishment on account of the particular injury suffered rather than for the offense against the public. The proceeding never obtained in the United States, and was abolished by act of Parliament in England in 1819.

appeal of mayhem. An ancient common-law action which combined the injured parties private action and a criminal prosecution. 36 Am J1st May § 7.

appear. To enter a formal appearance in an action or to appear by taking some step in contesting the action. To be manifest or evident. *McClurg v Powell*, 77 Miss 543, 27 So 927; *R. S. Oglesby Co. v Lindsey*, 112 Va 767. To seem to be of a certain kind or nature.

See **appearance**.

appearance. An outward manifestation. The first act of a defendant in court, being the overt act by which he submits himself to the court's jurisdiction. A formal or informal, direct or implied, written or oral submission by the defendant to the jurisdiction of the court in an action. 5 Am J2d Appear § 14. In a broader sense, a coming into court and submission to jurisdiction by either plaintiff or defendant. 5 Am J2d Appear § 1.

A defendant makes his appearance by entering a formal appearance or by taking some step in response to the action against him, such as filing or serving an answer or attacking the complaint, bill, or petition of the plaintiff by demurrer or motion. 5 Am J2d Appear §§ 14 et seq.

See **general appearance**; **special appearance**.

appearance bail. See **bail**.

appearance day. The last day upon which a defendant served with process may plead, submit a mo

tion, or, in some jurisdictions, enter his appearance, thereby avoiding a default. *Cruger v McCracken*, (Tex. Civ. App.) 26 SW 282, 283. Sometimes called default day, although the former practice in many jurisdictions of having all actions returnable on the second day of the next term of court is fast becoming obsolete, the common provision being for the requirement of an appearance under pain of default a prescribed period of time after service of process, irrespective of the date of the opening of the term of court.

appearance docket. A docket kept by the clerk of court wherein appearances are entered.

It is often a part of a general docket wherein the various steps in a case from the service of process to the entry of judgment and the issuance of execution are registered.

appearance fee. The fee charged by a clerk of court for entering an appearance. 15 Am J2d Clk Ct § 14.

appearance term. The term of court at which the defendant in a civil case or the accused in a criminal case is cited to appear. The term of court at which it first becomes apparent that there is for trial and determination any issue of fact.

appearand heir. (Scotch.) One who is entitled to inherit, but who has not yet made entry upon the land.

appearer. One who enters a formal appearance in court as or for a defendant.

appear generally. See **general appearance**.

appear gratis. To enter an appearance in an action without requiring or awaiting the service of summons or other process.

appears. See **appear; appearance**.

appear specially. To appear in an action without submitting to the jurisdiction of the court, as where the defendant challenges the sufficiency of the service of process. 5 Am J2d Appear § 2.

See **special appearance**.

appeaux. Appeals.

appel. Appeal; appealed; accused.

appelans. An appellant; the accuser in an appeal of felony.

appele. Same as **appellee**.

appellant. A person who appeals from the judgment of a court; the complaining party in an appeal of felony.

appellare. To appeal; to prosecute an appeal of felony. (Roman law.) To appeal to; to demand; to sue.

appellare adversus sententiam. To appeal from a sentence.

appellate. Pertaining to the taking of an appeal, as appellate court, appellate procedure; of a higher jurisdiction. In its broadest sense the word denotes nothing more than the power of one tribunal to review the proceedings of another, either as to law or fact, or both. *Marbury v Madison* 5 US (1 Cranch) 137, 147, 2 L Ed 60, 64.

Appellate Division Conference. An agency of the United States for the settlement of a taxpayer's case not settled with the office of the District Director of Internal Revenue.

Appellate Division of the Supreme Court. An intermediate appellate court in New York.

appellate jurisdiction. The jurisdiction of appeal or review proceedings, as distinguished from trial court or *nisi prius* jurisdiction, being contingent on timely compliance with constitutional or statutory methods of appeal. *Barney v Platte Valley Public Power & Irrig. Dist.* 144 Neb 230, 13 NW2d 120.

appellatio. An appellation; a name; an appeal.

appellation. See **name.**

appellatione. Name.

appellator. Same as **appellant.**

appellee. A party against whom a cause is appealed from a lower court to a higher one.

In some jurisdictions, he is called the "respondent." The term "appellee" is also applied to the defendant in an appeal of felony. And, also, to a person who is "appealed" by an approver. See **approver.**

appello. I appeal, -the formal word by which an appeal was taken under the Roman law.

appellor. An appellant, a person who prosecutes an appeal from a lower court; an approver, who accuses his confederates in crime; a party who challenges a jury.

appellour. Same as appellant.

appellum. An appeal.

appenage. Under French feudal law, the portion which was given to the sons of the king for their support. It reverted to the king on failure of male heirs.

append. Pending.

appendage. An accessory of a more important thing, something connected with it, and either essential to its completion or to its advantageous and convenient operation. *State Treasurer v Somerville & Easton Railroad Co.* 28 NJL 21, 26, 27; Anno: 7 ALR 795.

Under a statute authorizing a school board to provide the necessary "appendages" for a schoolhouse, it may bind the district to pay for the drilling of a well in the school yard for the purpose of supplying drinking water, although no suitable water is found, and the well is on that account entirely useless. *Schofield v School Dist.* 105 Kan 343, 184 P 480, 7 ALR 788.

appendant. Appurtenant; belonging to another more important thing.

At common law, things incidental to a fee in land were classified as things "regardant," "appendant," and "appurtenant," marking distinctions which are now obsolete. *New-Ipswich W. L. Factory v Batchelder*, 3 NH 190.

appendant power. See **power appendant**.

appender. To append; to affix; to annex.

appenditia. Appurtenances.

appendix. An addition to a book, placed at the end of the text, for convenient reference to supplemental and explanatory material contained therein; in appeals in the House of Lords and the Privy Council, a printed volume containing the material documents or other evidence used in the courts below and referred to in the cases of the parties.

appensura. Payment in money by weight.

appent. Same as appendant.

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appertaining. Relating to.

See **appurtenant**.

appertinances. Same as **appurtenances**.

appliance. A tool, an instrumentality of convenient use, especially in the use of a larger instrumentality, for example, appliances for use with a vacuum cleaner. Appliances are usually personal property, becoming real estate only as they may be so adapted to the use and enjoyment of real estate as to lose their identity as personalty. *Doll v Guthrie*, 233 Ky 77, 25 SW2d 947.

appliances of transportation. The roadbed, tracks, cars, engines, and all other machinery and equipment furnished by the carrier and used in connection with the conduct and management of its business, but not property belonging to the passenger which he takes into the car with him. See *Burns v Pennsylvania R. Co.* 233 Pa 304, 82 A 246.

applicable. Appropriate; such as can be applied.

In determining the effect of a statutory adoption of the common law so far as it may be "applicable," the word is to be construed as meaning applicable to local conditions and habits and in harmony with the genius, spirit, and objects of local institutions. *Fuchs v Goe*, 62 Wyo 134, 163 P2d 783, 166 ALR 1329.

applicant. One who files an application or petition; a petitioner.

applicare. To fasten; to moor a ship.

applicatio est vita regulae. The application is the life of the rule.

application. Use, as the application of a drug; devoting to a purpose, as the application of payments. A request; a seeking, usually in the form of writing; a petition.

One of the most frequent uses of the term is in the law of insurance, it referring in that connection to the first step in negotiating a contract or policy of insurance, being a signed statement by the prospective insured wherein he requests the insurance and fills in such details concerning the risk as the insurer seeks by way of information upon which it will decide whether or not to accept the risk and issue a policy. *Dickinson v Bankers Life & Cas. Co.* (Mo App) 283 SW2d 658.

application for incorporation. A formal application required by the statutes of some of the states to be made to some designated court for the approval of the court of the right of the applicants named therein to form a corporation. 18 Am J2d Corp § 42.

application for insurance. See **application**.

application of payments. The use or account to which a payment is applied or credited where a single creditor has two or more demands, and other creditors, as well as the debtor, will be affected by the particular application made. 40 Am J1st Paym §§ 108 et seq.

apply. See **application**.

appoint. To designate a person for a purpose, such as holding office; to fix a time.
See **appointment**.

appointee. A person who has been appointed to an office or trust.

appointing power. The power or authority to appoint public officers. *Walker v Cincinnati*, 21 Ohio St. 14.
See **power of appointment**.

appointment. The designation of a person to occupy a public office, including appointments under the Civil Service. 15 Am J2d Civ S § 1; 42 Am J1st Pub Of § 90. More broadly defined to include the selection of corporate officers and other officers of a private nature. Sometimes construed to include the result of a popular election. 25 Am J2d Elect § 1. An engagement to meet another at a specified time.
See **power of appointment**.

appointment of administrator. The issuance of letters of administration upon application therefor.
A proceeding for the appointment of an administrator is to be considered as an "action" within the meaning of that word as used in a general statute of limitations. 31 Am J2d Ex & Ad § 84.
See **letters of administration**.

appointment of appraiser. An appointment of a person to act in ascertaining a specific fact, to wit: the value of a certain property, piece of property or the loss incurred in its destruction in whole or in part. 5 Am J2d Arb & A § 3.
Under the arbitration clause of a fire insurance policy, the naming of a person to act as appraiser by one of the parties is not a "selection" until the other party has agreed to accept him. *American Macaroni Mfg. Co. v Niagara Fire Ins. Co.* (DC Ala) 43 F Supp 933.

appointment of arbitrators. The selection of arbitrators under an agreement for arbitration of a dispute, the usual method being for each party to choose one and for the two thus chosen to select a third to serve with them. 5 Am J2d Arb & A §§ 86, 88.

appointment of counsel. Same as assignment of counsel.

appointment of executor. The designation of a person to act as executor appearing in a will. The issuance of letters testamentary upon application made therefor.

See **letters testamentary.**

appointment of shipmaster. The selection of the master of a ship by the owner or by the owners of a majority of the part interests. See 48 Am J1st Shipping § 114.

appointment of trustee. The designation of a person as trustee made by will, deed of trust, or other trust instrument, or the naming by a court of a person to act as trustee.

appointment to office. See **appointment.**

appointor. The person appointed by a donor, under the statute of uses, to execute a power.

apport. A tax or other tribute paid to the government. In French law, personal property or documents brought in or contributed.

See **apportum.**

apport en nature. (French law.) Payment in kind.

apportion. To divide and assign in proportion; to distribute among two or more a part or share to each.

See **apportionment.**

apportionamentum. An apportionment.

apportionment. A division of property; also a determination of the liability of co-obligors in enforcing contribution. 18 Am J2d Contrib § 19.

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See **partition; pro rata; also terms beginning with word prorating.**

apportionment of accretion. The division of accretion between adjoining riparian proprietors along the shore of a body of water. See 56 Am J1st Wat §494.

apportionment of direct taxes. The requirement in reference to federal taxes under paragraph 4 of section 9 of Article I of the Constitution of the United States; apportionment according to the census.

apportionment of freight. See **freight pro rata itineris.**

apportionment of local assessment. The legislative act of determining the mode of distributing the burden of an assessment for a local improvement, designating the property out of which the tax is to be made, and establishing some certain standard of assessments. When not constitutionally restricted, the legislature may prescribe any method of apportionment which it deems equitable, unless it is palpably arbitrary and constitutes a plain abuse. See 48 Am J1st Spec A § 57.

apportionment of representatives. The determination of the number of representatives to which a state is entitled in the House of Representatives of the Congress of the United States or to which a county is entitled in a state legislature; the drawing of district lines to create election units.

See **reapportionment**.

apportionment statutes. Statutes providing in effect that the amount of an estate tax, state or federal, shall be paid out of the state before its distribution and shall be equitably prorated among the persons interested in the estate to whom benefit accrues, except as the decedent has directed otherwise in his will. Annos: 26 ALR2d 927; 37 ALR2d 203.

See **apportionment of direct taxes**.

apportum. The revenue derived from a right such as an incorporeal hereditament or a pension.

apposal of sheriffs. The charging of the sheriffs with money received by them on account of the exchequer.

appose. To examine an officer with reference to his accounts.

appostille. Same as **apostil**.

appraisal. A determination of worth or value, as the appraisal of a dwelling house, a manuscript, or a literary product.

See **appraise**; **appraisement**.

appraise. To estimate value; to determine the amount of a loss according to the value of the property injured or destroyed. *Vincent v German Ins. Co.*, 120 Iowa 272, 278, 94 NW 458. 29A Am J Rev ed Ins § 1610.

appraisement. The act of appraising; the amount determined as the value by an appraisement; another meaning sometimes confused with arbitration but essentially different, being a method of determining the value of a thing, agreed upon and provided in advance for the purpose of avoiding a dispute in the future. *Sanitary Farm Dairies, Inc. v Gammel* (CA8 Minn) 195 F2d 106; 5 Am J2d Arb & A § 3.

appraiser. A person selected to value property, for example, an appraiser of a decedent's property for inheritance tax purposes, or an appraiser of imported goods. See **customs appraiser**.

appreciate. To appraise.

appreciate. To rise in value; to understand; to recognize the value in a person or a thing.

appreciation of risk. See **apprehension of injury**.

apprehend. To make lawful arrest; to capture; to place in custody; to seize; to have knowledge of something.

apprehendere. Same as **apprehend**.

apprehensio. Same as **apprehension**.

apprehension. The seizure, taking, or arrest of a person on a criminal charge. *Hogan v Stophlet*, 179 111 150, 53 NE 604. Another meaning relevant to the law is that of knowledge or perception.

apprehension of injury. The basis of a duty to avoid injury, an essential element of negligence. 38 Am J1st Negl § 24. Also, an essential of the defense of assumption of risk. *Edwards v Kirk*, 227 Iowa 684, 288 NW 875.

apprentice. In the broad sense, a learner; one who by labor seeks to acquire the art or mystery of the craft at which he is employed. Anno: 36 ALR 1348. In a technical and almost anachronistic sense, a minor who is bound in the form of law to a master for a specified length of time, terminable at his majority or prior thereto, to learn the art or mystery of some trade, craft, profession, or business in which his master is bound to instruct him, and to serve his master during the term of his apprenticeship.

See **articles of apprenticeship**.

apprentice en la ley. An apprentice at law. See **apprenticii ad legem**.

apprenticeship. See **apprentice**; **articles of apprenticeship**.

apprenticeship deed. Same as **articles of apprenticeship**.

apprenticii. Apprentices.

apprenticii ad legem. Apprentices at the law; students at the inns of court.

apprenticius. Same as **apprentice**.

apprenticius ad barras. A student preparing for the profession of barrister.

apprenticius ad legem. An apprentice at law; a law student.

apprentise. Same as **apprentice**.

apprentise en la ley. Same as **apprentice en la ley**.

apprentissage. Apprenticeship.

apprentitius. Same as **apprentice**.

apprest. Ready; prepared; preparation for war by the enlistment of soldiers.

apprester. To prepare.

apprimes. First.

appris. Informed; learned.

apprise. To teach; to give notice; to appraise.

apprises en la ley. Learned in the law.

apprising. Teaching or informing; an ancient Scotch procedure whereby a debtor's land was conveyed to the creditor to settle the debt.

approach. To come near or in proximity. Wadsworth v Marshall, 88 Me 263, 34 A 30.

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See **right of approach.**

approach of a bridge. The passage connecting the highway with a bridge, making the bridge accessible. For a reasonable limit, the approach is regarded by law as part of the bridge itself.

approbar. To approve.

approve and reprobate. To accept one part and reject another.

approbation. Approval; a technical term in use at one time in England and France for the official approval of publication of a book.

approbator. Same as **approver.**

approbatory articles. See **articles approbatory.**

approbo non reprob. I approve what I do not disapprove.

approcher. To approach.

approper. To appropriate.

appropriare. To appropriate.

appropriare communiam. To remove a piece of land from a common by enclosing or appropriating it.

appropriare et includere communiam. To appropriate and enclose a common; to discommon.

appropriate. Adjective: Fit; adapted to; designed; suitable. Thomas v State (Okla) 244 P 816.

appropriate. A verb derived from the Latin "ad" and "proprius". To allot, assign, set apart, or apply to a particular use or purpose. State v La Grave, 23 Nev 25, 41 P 1075. To take to one's self to the exclusion of others; to set apart for a use in exclusion of all others. Newhouse v First Nat. Bank, (DC Ill) 13 F2d 887.

appropriate speed. A variable term to be resolved according to the surrounding circumstances. 8 Am J2d Auto § 687.

appropriation. A taking to the exclusion of others; a conversion of property where performed without right. 18 Am J2d Conv § 1. A taking of private property for public use under the power of eminent domain. Cushing v Gillespie, 208 Okla 359, 256 P2d 418, 36 ALR2d 1420.

appropriation bill. A proposed statute authorizing the appropriation of public funds for particular objects or purposes. 42 Am J1st Pub F § 43.

appropriation for war. The taking and use of property by the army or navy, in the course of war, not authorized by contract with the government. *Filor v United States*, 76 US (9 Wall) 45, 19 L Ed 549.

appropriation of fund. Legislative authority, given at the proper time and in legal form to the proper officers, to apply a distinctly specified sum from a designated fund out of the treasury, in a given year, for a specified object or demand against the appropriating body. 42 Am J1st Pub F § 43.

See **appropriation bill**.

appropriation of ice. Such exercise of dominion over ice on public waters, for example, cutting the ice into cakes, as will vest the exclusive right to the ice in the person so acting, provided he has the present ability and intention to proceed to a harvest of the ice. 27 Am J1st Ice § 5.

appropriation of payments. See **application of payments**.

appropriation of water. Application of water to some beneficial use. *Farmers High Line Canal Co. v Southworth*, 13 Colo 11, 21 P 1028.

See **prior appropriation**.

appropriation to capital. The application of net income of a corporation to an increase in the capital of the company, as by expanding the plant or making permanent improvements. *Davis v Jackson*, 152 Mass 58, 25 NE 21.

appropriator. See **appropriation; prior appropriation**.

approval. A sanction; expression of satisfaction.

In the law of agency, approval, ratification and acquiescence in an act all presuppose the existence of some actual knowledge of the act and what amounts to a purpose to abide by it. *Williams v Vreeland*, 250 US 295, 299, 63 L Ed 989, 992, 39 S Ct 438.

approval of performance. A determination, which, as called for by a provision in a building and construction contract, is to be made according to objective criteria. 13 Am J2d Bldg Contr § 30.

See **certificate of architect or engineer**.

approval sale. A sale on approval. 46 Am J1st Sales § 492.

approve. To confirm, ratify, sanction, or consent to, some act or thing done by another. *Board of Education v Reno Community High School*, 124 Kan 175, 257 P 957.

As used in a statute giving an officer power to "approve" an application, it is not ordinarily limited to a mere verification of the facts as stated in the application, but involves a grant of discretionary power, complete unless limited by the statute, and implies knowledge, the exercise of discretion after knowledge, and the act of passing judgment. *McCarten v Sanderson*, 111 Mont 407, 109 P2d 1108, 132 ALR 1229. "To approve," especially where it is a public officer who is to give sanction, is to go beyond an unexpressed mental acquiescence; his sanction should be given with certainty and by an unmistakable sign or declaration. *People * Hall*, 140 Cal App 745, 31 P2d 83 1. Approval by * finance committee of a municipality means that the members of the committee, acting upon their official responsibilities and having in view the public welfare, are to investigate and

sanction according to their own independent judgment each separate item. It is not a ministerial function but implies active and important prudential obligations. *Brown v Newburyport*, 209 Mass 259, 95 NE 504.

A sense of the term much less familiar is that of accusing. A person who is indicted for crime is said to approve another person when he, the approver, before plea, confesses and accuses the other of the offense. In a sense that seems to have become obsolete; to "approve" land means to improve it by cultivation and reclamation.

approveamentum. Same as **approvement**.

approved bill. A bill of exchange drawn by one whose financial credit is good. *Mills v Hunt*, 20 Wend (NY) 431, 435.

approved note. A promissory note made or indorsed by one whose financial credit is good.

approved security. A term having particular reference to the security required of the purchaser at an auction sale, meaning such security as ought to be approved by the auctioneer. 7 Am J2d Auct § 47.

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approvement. The old English practice of encouraging accomplices to become crown witnesses by holding out the hope of pardon on a full disclosure of their own guilt and that of their accomplices. The word was also used in the past, in a sense that appears now to have become obsolete, to signify an improvement; an enclosure or fencing for the improvement or cultivation of the land.

approve of. See **approve; consent to**.

approver. Also called a "prover" or "probator," -a person who, after having been indicted for treason or other felony and arraigned for it, confesses his guilt before pleading guilty or not guilty and accuses the persons who were his accomplices, of the same crime, in order to obtain a pardon for himself. See 4 Bl Comm 330.

approximately. A word used in describing a course or distance, which usually is disregarded where not controlled or explained by a monument or other marker, and may be given meaning and effect where so controlled and explained. 12 Am J2d Bound § 57. An inconclusive term, standing alone, where used as a designation of the quantity of goods covered by a contract of sale. *Annos*: 7 ALR 511-1 26 ALR2d 1120; 46 Am J1st Sales § 159.

This word has been given the same interpretation as "more or less" with respect to relief by way of rescission or adjustment of purchase price for mutual mistake as to quantity of land where the sale is in gross. *Anno*: 1 ALR2d 50, 96.

approximation doctrine. See **cy pres; equitable approximation doctrine**.

appruamentum. Same as **approvement**.

appruare. Same as **approve**.

appulsus. A driving toward; an impelling.

appunctuare. To appoint.

appurtenance. A thing belonging to another or principal thing and which passes as an incident to the principal thing. *Anno*: 39 ALR2d 872; 23 Am J2d Deeds § 256. Such a thing as belongs to the land and is a part thereof. 55 Am J1st V & P § 124. An

easement or servitude to be used or enjoyed with demised premises. 32 Am J1st L & T § 169. As the word appears in a sale of personal property:-accessories; possibly including, when fairly construed in the light of the entire context, articles and subjects not comprehended by the word as it appears in a conveyance of land. 46 Am J1st Sales § 146. As the word appears in a chattel mortgage:-personal property intimately connected with the operation of the principal thing which is mortgaged. 15 Am J2d Chat Mtg § 77.

Of a vessel: Everything that belongs to the ship, such as sails and rigging, rudder and cordage, compasses, chronometers, lights, tackle and apparel, even though such may not be on board, and also such special equipment as may be necessary in the employment of the vessel for a particular purpose. 48 Am J1st Ship § 71.

appurtenant. Pertaining; belonging to something else.

See **appurtenance**.

appurtenant easement. See **easement appurtenant**.

appurtenant power. See **power appendant**.

appurtenant rights. Everything essential or reasonably necessary to the full beneficial use and enjoyment of property. 23 Am J2d Deeds § 256, An incorporeal right attached to, and belonging with, some greater or superior right; something annexed to another more worthy thing with which it passes as an incident, being incapable of existence separate and apart from the particular property to which it is annexed and to which it bears a relationship connected with the use of such property. 25 Am J2d Ease § 11.

appurtenant way. A right of way which is incident to an estate, which inheres in the land, concerns the premises, pertains to its enjoyment and passes with it. 25 Am J2d Ease § 11.

apree. Same as **après**.

a prendre. To take.

après. After.

See **en après**.

après le fait. After the deed.

après midi. Afternoon.

après que. After that.

a priori. From the past; from what has previously transpired.

To argue or reason "a priori" is to conclude by deduction that because certain facts exist, certain other facts will necessarily follow as a consequence. See 1 Bl Comm 32.

apris. Same as **appris**.

apris de la leie. Learned in the law.

aprovechamiento. A right in the commons where pueblo lands are involved. Hart v Burnett, 15 Cal 530, 566.

apt. Fit; suitable; proper.

apta viro. A girl of marriageable age.

apud. With; at the house of; among.

apud acta. Among the recorded acts.

apud London videlicet, in parochia Beatae Mariae de arcubus, in ward de Cheap. At London, that is to say, in the parish of St. Mary-le-bow, in the ward of Cheap. An old form for designating the venue.

See **SS.**

apud pares. Before his peers.

apurtenaunces. Same as **appurtenances.**

aqua. Water.

aqua aestiva. Water used only in summer.

aqua ammoniae. A solution of nitrogen and hydrogen.

Aqua cedit solo. The water goes with the land. Wholey v Caldwell, 108 Cal 95, 41 P 31.

aqua cooperta. Covered by water.

aqua currens. Running water.

Aqua currit et debere currere ut currere solebat. Water runs and ought to run as it is accustomed to run. San Gabriel Valley Country Club v Los Angeles County, 182 Cal 392, 188 P 554, 9 ALR 1200, 1207.

aqua ductus. The right to run water through the land of another.

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aqua dulcis. Fresh water.

aquae. Waters; streams.

See **fullum aquae; judicium aquae.**

aquae haustus. The right to draw water from the land of another.

aquae immittendae. Easement of dripping water.

aqua fontanea. Spring water.

aqua frigida. Fresh water.

aqueductus. A waterway; a trench; a ditch.

aqueductus. A water gauge; a mark on the bank to gauge the rising of the water.

aqueductus. A waterway; a toll paid for passage over water.

aqueductus. A waterway.

aqueductus. See **ius aquarum ducendi**.

Aqua non deliberentur sine speciali praecepto domini regis. From which they are not to be released without a special order from the king.

aqua pluvialis. Rain water.

aqua profluens. Flowing water.

aqua quotidiana. Water available at all times.

aquarum cursus. Watercourses.

aqua salsa. Salt water.

aquatic rights. Rights of fishing and navigation and in the soil under the sea and the rivers.

aquaticiles. Waterfowl, such as mallards and heron.

aqua trestornata. Water or a stream turned out of its natural course.

aqua viva. Flowing water.

a quo. From which; from whom.

arabant. Holding by tenure of ploughing and tilling.

Arabant et herciabant ad curiam domini. They ploughed and harrowed at the lord's court.

arable land. Land suitable for ploughing; land other than pasture, woodland and wasteland

arace. To raze; to tear out; to uproot.

aracher. To uproot.

aracine. Rooted; with growing roots.

araer. Same as **arayer.**

aralia. Arable land.

arare. To plough.

aratia. Same as **aralia.**

arationes. (Roman law.) Public lands leased at a yearly rental of one-tenth of the yield.

arator. A ploughman.

aratores. (Roman law.) Tenants of public lands.

aratrum terrae. Service rendered by a tenant by ploughing the land.

aratura terrae. The ploughing of the land; feudal service by ploughing.

araturia. Same as **aralia.**

arayer. To array; to arrange; to fix.

arbitr. An arbitrator; formerly, a person who was governed in his decisions by law and equity, rather than by his own judgment.

arbitrable. Capable of being submitted to arbitration; a matter constituting a controversy which may be the subject of an action. 5 Am J2d Arb & A § 54.

arbitrage. The computation of differences in rates of money exchange and in the market values of securities for the purpose of profiting by sales and purchases in different places. A simultaneous matched purchase and sale of identical or equivalent securities. *Falco v Donner Foundation, Inc.* (CA2 NY) 208 F2d 600, 40 ALR2d 1340. A transaction sometimes employed to profit by differences in the rate of exchange; sometimes to capitalize dividends and prevent their receipt as income. *Falco v Donner Foundation, Inc.* supra.

arbitral. Pertaining to arbitration.

arbitrament. The award of arbitrators.

Arbitramentum aequum tribuit cuique suum. A just arbitration renders to each party what is his.

arbitranda. To be judged.

arbitrar. (Spanish.) To adjudge or award; to strike out means or expedients. *Sheldon v Milmo*, 90 Tex 1, 15.

arbitrarily. Acting in an unreasonable or arbitrary manner.

arbitrary. According to notion or whim rather than according to law. Despotism; without reason. Fixed or arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances or significance. *United States v Carmack*, 329 US 230, 91 L Ed 209, 67 S Ct 252.

A legislative classification of a group of persons is not arbitrary if it is based on a substantial difference between that group of persons and all other persons and such difference bears a proper relation to the purposes of the statute. *Krebs v Board of Trustees*, 410 111 435, 102 NE2d 321, 27 ALR2d 1434.

arbitrary decision. A decision rendered by a court, or judge, or other officer exercising judicial functions which is based upon the will of the officer alone, and not upon any course of reasoning and exercise of judgment. *Mutual Ben. Life Ins. Co. v Welch*, 71 Okla 59, 175 P 45, 49.

arbitrary discretion. Unsound discretion; deciding by whim or caprice; discretion exercised for an erroneous reason. *National Ben. Life Ins. Co. v Shaw-Walker Co.* 71 App DC 276, 111 F2d 497.

arbitrary government. An absolute monarchy or, as in modern times, a totalitarian government.

arbitrary punishment. A sentence that is not supported by law. *Ex parte Lamar* (02) 274 F 160, 24 ALR 864, *affd* 260 US 711, 67 L Ed 476, 43 S Ct 251.

arbitrary test. An unreasonable test; a test imposed without reference to the purpose professed to be accomplished; discrimination.

arbitrate. To submit to arbitration; to settle a controversy by arbitration.

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arbitration. A mode of settling differences through the investigation and determination, by one or more persons selected for the purpose, of some disputed matter submitted to them by the contending parties for decision and award, in lieu of a judicial proceeding. *Crosby v State Board of Hail Ins.* 113 Mont 470, 129 P2d 99.

See **board of arbitration**.

Arbitration Act. A federal statute providing for the arbitration of disputes involved in maritime transactions or commerce. § USC §§ 1-14; *Annos*: 64 ALR2d 1338, §§ 2,3[a]; 100 L Ed 211. One of the uniform laws. 5 Am J2d Arb & A § 10.

The federal statute on arbitration is strictly limited to maritime transactions and commerce, but it is sufficient for the application of the statute that the matter involved is either a maritime transaction or commerce; it is not necessary that it be both. 5 Am J2d Arb & A § 6.

arbitration agreement. A contract to submit a dispute or disputes to arbitration, either present controversies or disputes which may arise in the future. 5 Am J2d Arb & A § 11.

arbitration and award. A plea raising the defense that the matter in suit has been previously settled by an arbitration.

arbitration association. See **American Arbitration Association**.

arbitration board. See **board of arbitration**.

arbitration bond. A bond of one of the parties to an arbitration given to secure his submission to the award.

arbitration clause. A clause in a contract providing for arbitration of any controversy arising out of the contract and its performance.

Sometimes such clause is incorporated by reference to the rules of a trade association or other organization. Anno: 41 ALR2d 872.

arbitration court. The International Court of Arbitration, known as the Hague Tribunal, established by the International Peace Conference in 1899.

This tribunal was succeeded by the Permanent Court of International Justice, established in 1920 under the auspices of the League of Nations, which in turn was succeeded by the International Court of Justice, established as the judicial branch of the United Nations organization. 30 Am J Rev ed Intenat L § 54.

arbitratione facta. See **de arbitratione facta.**

arbitration of exchange. The payment in one country by a bill of exchange drawn upon a party in another country.

arbitration of labor dispute. The hearing, determination, decision, and award by a board of arbitrators of the issues involved in a labor dispute.

arbitrators. Private, extraordinary judges of a domestic tribunal chosen by parties by whose agreement they are invested with quasi-judicial power to decide, finally, and without appeal, matters in dispute between the parties. 5 Am J2d Arb & A § 84.

See **arbitrators; board of arbitration.**

arbitratus. Awarded.

arbitrement. Same as arbitrament.

arbitrios. (Spanish.) The taxes which, in default of other means of revenue, a town imposes with competent authority upon certain articles of merchandise. As indicating the sources of revenue of a municipality, the words "proprios" and "arbitrios" are usually found linked together and when so connected, they are sometimes used as meaning "ways and means." Sheldon v Milmo, 90 Tex 1, 15.

arbitrium. A Roman law judgment in which the judge was governed largely by his conscience; an award of arbitrators.

arbitrium alieno. See **in arbitrium alieno.**

arbitrium boni viri. (Roman law.) The award or decision of a good man.

Freely translated, the decision upon the facts and circumstances of a case which would be made by a man of intelligence and high moral principle. 1 Pomeroy's Equity Jurisprudence, § 43.

Arbitrium est judicium. An award is a judgment.

Arbitrium est judicium boni viri, secundum acquum et bonum. An award is a judgment of a good man according to equity and good conscience.

arbitrium judicis. See **in arbitrium judicis.**

arbor. A tree; a bower; a place shaded by trees or shrubbery.

arbor civilis consanguinitatis. A family tree.

Arbor dum crescit, lignum dum crescere nescit. It is a tree while it grows, but it is wood when it is not growing. Dexter v Taber, 12 Johns (NY) 239, 241.

arbor finalis. A boundary line tree.

arca. A money chest.

area chirographica. A chest in which money lenders kept evidences of indebtedness.

arcana imperii. Imperial secrets.

arearius. A treasurer.

arceevesque. A bishop.

arcessere. (Roman law.) To summon to court; to bring before a judge.

arcewesche. An archbishop.

archabbot. The chief abbot of a monastery.

Archaionomia, sive de priscis Anglorum legis. A compilation of Saxon law published in the reign of Elizabeth, about 1600.

archbishop. A metropolitan bishop; a prelate; one in the hierarchy of the church who has supervision over the bishops in a church province.

archbishopric. The diocese or jurisdiction of an archbishop.

archdeacon. An ecclesiastical officer, with jurisdiction immediately subordinate to the bishop, throughout the whole of the diocese, or in some particular part of it.

archdeacon's court. An English ecclesiastical court with jurisdiction in probate, administration and ecclesiastical matters within the archdeanery; and, later, in the twelfth century, acquiring a customary

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jurisdiction. An appeal lay from the archdeacon's court to the consistory court.

archtleanery. One of the divisions or parts of a diocese, in charge of an archdeacon, under the English ecclesiastical system.

archery. The feudal service of maintaining a bow for the defense of the castle; the sport, skill, or past-time of shooting with bow and arrow.

arches. See **dean of the arches.**

arches court. An ecclesiastical court of appeal and of original jurisdiction. It was the court of appeal from all the diocesan courts, and its original jurisdiction, which had been universal in ecclesiastical cases, was greatly curtailed by the Statute of Citations, in 1529.

archetype. An original document.

archidiaconus. An archdeacon.

archiepiscopal. Pertaining to an archbishop.

archiepiscopus. An archbishop.

Archiepiscopus Cantaur. The Archbishop of Canterbury.

Archiepiscopus Ebor. The Archbishop of York.

archievesque. An archbishop.

architect. One whose profession it is to form and devise plans and designs, and draw up specifications, for buildings or structures, and to superintend their construction. *Arkansas State Board of Architects v Bank Bldg. & Equipment Corp.* 225 Ark 889, 286 SW2d 323, 56 ALR2d 720. 5 Am J2d Arch § 1.

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

architect's lien. A statutory lien upon the real estate for compensation for preparing plans and specifications or for superintendence, or for both plans and superintendence. 5 Am J2d Arch §§ 20-22.

architectural design. A design drawn for the purpose of construction according to architectural detail, in scale, and in accordance with the principles of mathematics, aesthetics, and the physical sciences. *Hecht v Commuter's Cafe*, 193 Misc 170, 80 NYS2d 86L

archium. Same as **archives.**

archives. Public records and papers required or permitted by law to be filed in public places of deposit for preservation and use as evidence of facts or because of historical interest

archivum. Same as **archive.**

archon. An Athenian magistrate.

archpriest. (Eccles.) The dean of a cathedral.

arch-see. The see or diocese of an archbishop.

arcifinies. Those landed estates which have natural boundaries, such as rivers, mountains or woods. The right of alluvion belongs to those whose estates are arcifinies, and not to others. *Smith v St. Louis Public Schools*, 30 Mo 290, 303.

arcifinious. Possessing a frontier which forms a natural defense.

arcium constructio. The building of forts or defensive works. This was a part of the *trinoda necessitas*, to which every man's estate was subject under the ancient law of England. *Butler v Perry*, 240 US 328, 331, 60 L Ed 672, 674, 36 S Ct 258.

arct. Forced; compelled; constrained.

areta. Same as **arct.**

arctable. Forcible.

arcta et salva custodia. In close and safe custody.

arctare. To bind; to force; to constrain.

ardent spirits. Distilled liquors. *Sarlls v United States*, 152 US 571, 38 L Ed 556, 14 S Ct 721.

arder. To burn.

ardhel. Same as **arthel.**

ardour. An incendiary.

ardours de mesons. Burners of houses.

Ardours sont qui ardent cite, ville, maison, beast, on autres chateaux. Ardours are those who burn a city, a village, a house, a beast or other chattels.

are. A French measure of area, being the equivalent of 119.6046 square yards.

area. An open space within a house or an adjoining inclosure.

area concept. The scheme in public housing projects whereby whole areas are selected for redevelopment, notwithstanding some of the properties may not be substandard or blighted. *Berman v Parker* 348 US 26, 99 L Ed 27, 75 S Ct 98.

area of production. A technical term employed in determining exemptions from the application of the Fair Labor Standards Act; a zone within which economic influences operate and outside of which they lose their force. *Addison v Holly Hill Fruit Products*, 322 US 607, 88 L Ed 1488, 64 S Ct 1215, 153 ALR 1007, reh den 323 US 809, 89 L Ed 645, 65 S Ct 27. A territorial area, wherein it is farm labor involved in the production of agricultural commodities, as distinguished from industrial labor required before such commodities are offered for sale to the consumer. 31 Am J Rev ed Lab § 690.

area-sneak. A thief who sneaks around dwellings in order to steal.

areaway. A cellar or room under the sidewalk on a street. 25 Am J1st Highways § 263.

arcister. Same as **arester.**

arenales. Sandy beaches.

a rendre. To render.

arenes. Same as arraigned.

arenifodina. In Roman law,-a sandpit.

arentare. To rent.

areopagus. The seat of religious, political and judicial government in ancient Athens.

arer. Same as **arrer.**

arere. In arrear; back.

areremain. Back again.

arer et semer. To plough and sow.

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arerissement. Delay; hindrance.

A rescriptio argumentum. An argument based upon original writs in the record.

aresenez. Same as **arraigned.**

aresnes. Same as **arraigned.**

arestare. Same as **arrestare.**

arester. To arrest; to stop.

arester. The creditor in an arrestment.

aret. Same as **arret.**

a retro. In arrears.

aretro. Same as **a retro.**

arg. An abbreviation of *arguendo*.

argentaria. Dealing in money.

argentarii. Money lenders.

argentarius. A money lender; a banker.

argentarius miles. A porter who carried money in the exchequer.

argenteus. A Roman coin worth about a denarius and a half.

argentifodina. A silver mine.

argentum. Silver.

argentum album. Uncoined silver; silver coin; white rent.

argentum Dei. God's money: an earnest given to bind a bargain.

argentum factum. Silver which has been wrought into some article.

argentum infectum. Silver which has not been wrought into anything.

arguendo. In argument; by way of argument.

argument. A reason offered to induce belief and convince the mind. *Rahles v J. Thompson & Sons Mfg. Co.* 137 Wis 506, 118 NW 350.

argumentative. Inferential; contentious.

argumentative denial. A denial in an argumentative or reasoning manner and not in direct, positive form of proper pleading. 41 Am J1st PI § 134.

argumentative instruction. An instruction given by the court in its charge to the jury which directs the jury to look to certain facts as tending toward certain conclusions.

Such an instruction is objectionable but not reversible error, unless it appears to be prejudicial. 53 Am J1st Trial § 552.

argumentative pleading. A pleading which makes its allegations in the manner of reasoning rather than by direct and positive statements. 41 Am J1st PI § 134.

argumentative traverse. An argumentative plea or answer. 41 Am J1st PI § 134.

argument of counsel. The discussion by counsel for the respective parties of their contentions on the law and the facts of the case in hand in order to aid the jury in arriving at a correct and just conclusion. 53 Am J1st Trial § 452.

See **opening statement; summing up.**

argument on appeal. A written or printed legal argument, sometimes supplemented by an oral presentation, intended to assist the court in arriving at a just and proper conclusion by presenting the side of a party as supported by points of law and facts in evidence. 5 Am J2d A & E § 684.

See **brief.**

argumentum. Argument.

Argumentum ab auctoritate. Argument based on authority.

Argumentum ab impossibili. An argument drawn from an impossibility.

Argumentum ab inconvenienti. An argument drawn from the inconvenience of a thing. Park v Candler, 114 Ga 466, 503.

Argumentum ab inconvenienti plurimum valet in lege. An argument drawn from the inconvenience of the thing is very forcible in law. See Broom's Legal Maxims, 184.

Argumentum a communiter accidentibus. An argument from ordinary occurrences.

argumentum ad crumenam. An argument addressed to the purse.

argumentum ad hominem. An argument addressed to the man, that is, a personal argument.

argumentum ad ignorantiam. An argument addressed to ignorance, that is, one based upon the ignorance of the audience.

argumentum ad invidiam. An argument resting in hatred or prejudice.

Argumentum a divisione. An argument from a division of the matter.

argumentum ad iudicium. An argument appealing to one's judgment.

argumentum ad verecundiam. An argument addressed to the sense of decency.

Argumentum a majori ad minus. An argument from the greater to the less.

Argumentum a simili. Argument from analogy.

argumentum baculinum. An argument appealing to the club, to violence.

argumentum ex concessio. An argument based upon what has been conceded or admitted.

aribannum. A feudal penalty imposed for disobedience of the king's order to take up arms.

arid lands. Lands of western states in need of reclamation by irrigation. 30 Am 3 Rev ed Irrig §§ 92112.

A district is "arid" where rainfall is insufficient for agricultural purposes. Hall v Carter, 33 Tex Civ App 230, 233, 77 SW 19.

arier ban. Same as **arrier ban**.

ariere. See **en ariere**.

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arimanni. Freeman who were employed on farms.

aripenna. Same as **arpennus**.

aripennum. Same as **arpennus**.

arise. To come into being or notice, as a cause of action arising at a particular time and place. Sherman v Droubay, 27 Utah 47, 74 P 348.

arisen. Generally understood to be the equivalent of "accrues", where it pertains to a cause of action. 34 Am J1st Lim Ac §46.

arising in another state. The accrual of a cause of action in a foreign jurisdiction in which the obligation was to be paid or discharged. 34 Am J1st Lim Ac § 224.

arising out of and in the course of the employment. Imposing double conditions, both of which must be satisfied before liability for workmen's compensation arises. 58 Am J1st Workm Comp § 209.

arising out of or in the course of the employment. Conditions imposed in the disjunctive, the fulfillment of either of which is sufficient in respect of liability for workmen's compensation. 58 Am J1st Workm Comp § 209.

arising out of the employment. Implying a causal connection between an injury to an employee and the performance of work required of him. 38 Am J1st Workm Comp § 211.

aristarchy. Government by the best men of the country.

aristocracy. A government ruled by a class; an elite class; those who excel in a group, as the aristocracy of football coaches.

aristodemocracy. Government by a combination of the nobility and the common people.

arles. Money given as an earnest to bind a bargain.

arm. Noun: A limb of the human and ape body; a weapon. Verb: To furnish with weapons.

arma. Arms; weapons.

arma capere. To take arms; to assume knighthood.

arma dare. To give arms; to knight.

Arma in armatosjura sinunt. The laws permit the use of arms against those who are armed.

arma libera. Free arms; the sword and lance given to a servant upon his manumission.

armamenta navis. The paraphernalia of a ship.

arma moluta. Cutting weapons.

arma pacis et justitiae. The arms of peace and justice.

arma perturbationis pacis et injuriae. Arms of broken peace and injustice.

arma reversata. Reversed arms, an ancient punishment for treason and felony.

arma suscipere. To assume knighthood.

armata vis. Armed force; armed services.

armatura. Armor.

armature. Armor; the revolving part of a dynamo or motor.

arme. A weapon.

armed. Furnished, equipped, or carrying weapons of offense or defense. State v Lynch, 88 Me 195, 198, 33 A 978. Carrying weapons for offensive or defensive combat. 56 Am J1st Weap § 2. armed country. A nation prepared for war.

armed force. A posse of citizens called to duty to help maintain order or arrest a person charged with crime. Chapin v Ferry, 3 Wash 386, 28 P 754.

Armed Forces. The entire military establishment of the United States; Army, Navy, Air Force, Coast Guard, etc.

armed neutrality. The state of a country which is neutral as to the belligerents but arms to resist attack or invasion.

armed peace. The state of a country which in time of peace is ready for war; in the terminology of the day, a cold war.

armed services. The entire body of officers, noncommissioned officers, and enlisted men which stands ready for defense of the country, whether by land, sea, or in the air, perhaps, some day in space.

armed ship. A merchantman which has been equipped for fighting.

armig. Same as **armiger**.

armiger. A squire; a knight's armor bearer; one entitled to bear heraldic arms.

armigeri natalitii. Armor bearers or esquires by birth. Such were the eldest sons of younger sons of peers, and their eldest sons. See 1 Bl Comm 406.

armistice. An agreed interruption of hostilities between belligerent nations; a truce.

arm of the sea. A bay or river where the tide of the sea ebbs and flows.

armor bearer. One who carried the equipment of a knight or other fighting man; a squire.

Armorum appellatione, non solum scuta et gladii et fustes et lapides continentur. Under the term "arms" are included, not only shields and swords, but also clubs and stones.

arms. See **bearing arms; weapons; insignia.**

arms-bearing. See **bearing arms.**

arm's length. See **at arm's length.**

arms of the United States. The armed forces and armaments of all kinds of the United States. 22 USC § 2552(a).

armum molutum. A cutting weapon.

army. A body of armed men, or a body of men part of whom are armed and part of whom bear or work with other equipment compatible with their duties, so organized and disciplined as to act together, be mutually reliant, and perform in unison the evolutions of the march and the battlefield upon command given therefor. 36 Am J1st Mil § 3.

Army. The land forces of the United States Armed Services.

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arnica. A drug. State Board of Pharmacy v Matthews, 197 NY 353, 90 NE 966.

aromatarius. A grocer.

arpen. Same as **arpent.**

In Louisiana, the word is infrequently and incorrectly used when the word "acre" is meant. Randolph v Sentilles, 110 La 419, 34 So 587.

arpent. An ancient French land measure containing 100 perches, the equivalent of 100 square rods.

arpentator. A land surveyor.

arpentum. Same as **arpent.**

arpine. Same as **arpent.**

arra. An earnest payment to bind a bargain.

arrage. Insane; demented.

arraign an assign. To sue; to arrange or prepare for an action or a trial.

arraigner. To arraign.

arraignment. The act of bringing an accused before a court to answer the charge made against him by indictment, information, or complaint. It consists of bringing the accused into court, reading the charge to him then and there, and then calling upon him to plead thereto as "guilty" or "not guilty."

arraigns. See **clerk of arraigns.**

arrainare. To arraign.

arrameur. A port officer who directed the proper loading and stowing of cargoes.

arranare. Same as **arrainare.**

arrangement. A term for what was formerly called a composition; a word with a dual meaning, one being the proceeding by which a debtor, in failing circumstances but not hopelessly insolvent, may have his financial affairs adjusted in the bankruptcy court and be rehabilitated; the other being the plan worked out in the proceeding whereby rehabilitation may be accomplished.

See **deed of arrangement; family arrangement.**

arrangement of music. An adaptation of a musical composition to instruments or voices other than those for which it was originally produced, such being a protected right under a copyright of the original composition. 18 Am J2d Copyr § 22.

arrangement of words. An author's intellectual production; the subject of copyright. 18 Am J2d Copyr § 4.

arras. A civil law term for property which the husband gives the wife on account of marriage. Cutter v Waddingham, 22 Mo 206, 254.

array. Noun: The list of names attached to the writ of venire which indicates the names of persons to be summoned as jurors. 31 Am J Rev ed Jury § 74. Also, the whole body of men and women summoned for jury duty. Durrah v State, 44 Miss 789, 796. An impanelled jury. Verb: To select jurors.

arrearages. Same as **arrears.**

arrears. Payments past-due, as arrears in alimony. Passed dividends on preferred stock. Anno: .25 ALR2d 802.

arrect. To charge or accuse; charged or accused.

arrectatus. One accused or suspected of a crime.

arrest. (Scotch.) An arrest.

arrenatus. Arraigned; accused.

arrendamiento. (Spanish.) A lease of realty.

arrent. To lease; to let at a rental.

arrentatio. Same as **arrentation.**

arrentation. The right or privilege of leasing; the privilege granted to a tenant of forest land to enclose it on paying rent.

arrer. To plough.

arrerages. Same as **arrears.**

arreragium. Arrears; the balance due on an account.

arrere. To plough.

arrer le prees. To plough the meadows.

arrest. The taking, seizing or detaining of the person of another, accomplished by (1) touching or putting hands on the person to be detained; (2) or by any act that indicates an intention to take him into custody and that subjects him to the actual control and will of the person making the arrest; or (3) by the consent of the person to be arrested. 5 Am J2d Arr § 1. In military law, the detention of a member of the armed forces resulting from the preferring of charges and the convening of a court-martial. United States v Smith, 197 US 386, 49 L Ed 801, 25 S Ct 489.

See **false arrest; malicious arrest; posse comitatus; rearrest; rescue; return of warrant of arrest; warrant of arrest.**

arrestandis bonis ne dissipentur. A writ which, pending litigation, prevented an irresponsible party to the action from making away with chattels involved in the action.

arrestando ipsum qui pecuniam recepit. For arresting one who received money,-a writ for the arrest of a man who had received money for enlistment in the army and had then disappeared.

arrestare. To make an arrest.

arrestari et imprisonari. To be arrested and imprisoned.

arrestatio. Same as **arrestment.**

arrestation. The act of arresting or of making an arrest.

arrestatio navium. The arrestment of ships.

arrestee. The person in whose possession goods are held under an arrestment; a garnishee in Scotch law.

Arrestentur corpora eorum. Their bodies shall be arrested.

arrester. The party who sues out an arrestment.

arrest for debt. See **imprisonment for debt.**

arrest in civil action. See **civil arrest.**

arrestment. An old English and Scottish term for what is better known today as foreign attachment or garnishment, but applying only to the provisional remedy, not to any proceeding under or in aid of an execution. *Wilder v InterIsland Steam Navigation Co.* 211 US 239, 246, 53 L Ed 164, 167, 29 S Ct 58.

arrestment jurisdictionis fundandae causa.

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An arrestment for the purpose of founding jurisdiction, a Scotch writ whereby a defendant was brought within the jurisdiction by attaching his goods.

arresto facto super bonis mercatorum alienigenorum. A writ against the goods of aliens found in England to obtain recompense for goods taken from a denizen in a foreign country.

arrest of judgment. A remedy by motion for a party against whom a verdict has been rendered. A remedy solely for the defendant under the earlier practice where a judgment non obstante veredicto was available only for a plaintiff. 30A Am J Rev ed Judgm § 292. Preventing entry of judgment upon the verdict in a criminal case. 21 Am J2d Crim L § 520.

arrest of ship. A temporary detention, without design of depriving the owner of the vessel, but to liberate or restore the ship or goods detained, or to pay the value thereof. 29A Am J Rev ed Ins § 1323.

arrest on mesne process. Provisional relief by an attachment of the person of the defendant in a civil action.

arrests of princes. See **restraints of princes.**

arrestum. An arrest.

arrest without warrant. An arrest by a peace officer, or even by a private person in some instances, which is legal, notwithstanding the absence of a warrant of arrest, because of the existence of justification under the law, as where the officer has reasonable cause to believe that a felony has been committed and that the person arrested is the person guilty of the crime, and where an arrest made by a private person was that of a person who had committed an offense in his presence. 5 Am J2d Crim L §§ 22 et seq.

arret. The decision of a court; a published decree.

arretted. Arraigned; accused.

arrha. Same as **arra.**

arrhabo. An earnest paid to bind a bargain.

arrahae sponsalitia. (Roman law.) Betrothal gifts of either of the betrothed to the other.

arrhes. Earnest money.

arriage and carriage. Indefinite and unlawful services formerly demanded of servants.

arriere fee. A fee dependent upon a superior fee.

arriere fief. Same as **arriere fee**.

arriere vassal. The vassal or a vassal.

arrivagium. An arrival.

arrival of ship. A term of various meanings, depending on the context in which it appears.

An American ship does not arrive at a foreign port, so as to require the master to deposit his papers with the American consul or commercial agent, unless the ship comes in on business which requires an entry, stay, and clearance, something more than coming in to escape a storm, to receive advice about the market, or ascertain the state of the weather. 48 Am J1st Ship § 222. For the purpose of marine insurance a ship ordinarily has not arrived until she has dropped anchor or moored; in the case where a voyage policy is involved, not until she has been moored in safety for 24 hours. 29 Am J Rev ed Ins § 328.

Within the meaning of the Federal Tariff Act of September 21, 1922, dealing with the unlawful unloading of ships, a ship was held to have "arrived" when she cast anchor seven or eight miles off the seacoast for the purpose of there disposing of her cargo. *The Cherie* (CAI Me) 13 F2d 992.

arrogate. To assert a claim to, or take, something without right; to exercise authority which one does not have.

arrogatio. An adoption wherein the person adopted submits in his own right.

See **arrogation**.

arrogation. Claiming or taking more than is lawfully due-, taking or asserting without right.

arrogator. The adopting parent in an adoption arrogatio.

arrondissement. (French.) A department subdivision.

arroyo. (Spanish origin) A stream or watercourse; a natural channel through which surface or flood waters flow. *Kroeger v Twin Buttes R. Co.* 13 Ariz 348, 114 P 553.

arrura. Same as **arura**.

ars. Burnt; consumed by fire.

arsae et pensatae. Burnt and weighed; used of coins to be minted.

arse. A good old English word for buttocks.

arsenic. A poison used in many murders.

arser in le main. Branding by burning on the hand.

arseun. Same as **arson**.

arsine. Same as arson.

arsion. Same as arson.

arson. At common law, the malicious and voluntary or wilful burning of another's house, or dwelling house, or outhouse appurtenant to or a parcel of the dwelling house or within the curtilage.

By statute, the common law definition has been enlarged to make it applicable to the burning of buildings and property other than dwelling houses or other houses within the curtilage. 5 Am J2d Arson § 1.

See **attempt to commit arson**.

arsure in le main. Same as arser in le main.

art. A creation of form and beauty; the ability to create; cunning or craft.

'Art,' within the meaning of the law of patents, is the mode or process of treating materials so as to produce a given result. *Expanded Metal Co. v Bradford*, 214 US 366, 53 L Ed 1034, 29 S Ct 652.

art and part. A Scotch term for abetting or instigating a crime; that is, for "arting" or instigating and participating.

arte. Forced; compelled; constrained.

arteriosclerosis. Hardening of the arteries. A diseased condition so serious that it should be revealed in answer to an interrogatory in an application for life insurance as to consultation with a physician. *Pacific Mut. Life Ins. Co. v Manley* (DC Ga) 27 F2d 915, *affd* (CA5) 35 F2d 337.

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artesian. The water contained or carried in a stratum of rock imprisoned between two impervious strata, the water-bearing stratum being inclined, and coming to the surface at some distant and higher point, called the "intake," where it receives the water, which percolates with greater or less rapidity along and through the inclined stratum, obedient to the law of gravity, until it reaches some obstruction so as to be imprisoned, in which event, if the stratum is pierced, water will rise in a tube or well by hydrostatic pressure, due to the greater height of the intake. 56 Am J1st Waters § 111.

The word "artesian" is often used to refer to underground water, notwithstanding it does not rise to the surface upon the piercing of the stratum. 56 Am J1st Waters § 112.

artesian well. A well in which water rises from a lower stratum under its own pressure and flows continuously above the surface of the ground. 56 Am J1st Waters § 111.

arthe. To avouch.

article. Noun: A division of a constitution, statute, contract, charter, or of any other written or printed statement of principles, terms or conditions. A material or substance, natural artificial or manufactured in whole or in part. *Junge v Hedden*, 146 US 233, 238, 36 L Ed 953, 956, 13 S Ct 88. The adjective "a" or "an," known as the indefinite article. Verb: To bind by contract or agreement; to enter into a written contract containing several clauses or divisions.

articled clerk. A lawyer's clerk bound to him by a contract (articles) for his services and for his instruction in law.

articles approbatory. (Scotch.) A reply corresponding to an answer to a bill in equity.

articles improbatory. (Scotch.) A proceeding corresponding to the bill or complaint in an equity suit.

articles of agreement. A contract in writing, or a signed memorandum of a contract.

articles of apprenticeship. An instrument consisting of a contract or indenture whereby a minor was bound out to a master for a fixed period to learn a trade.

articles of association. The agreement entered into by and between the members on forming an unincorporated association. 6 Am J2d Asso & C § 5.

articles of commerce. Articles which are the subject of trade and barter, offered in the market as something having an existence and value independent of the parties to them; commodities to be shipped or forwarded from one state to another and then put up for sale.

An article becomes an article of interstate commerce when it becomes an article of trade from one state to another, and this does not occur until it begins to move, and this movement does not begin until the article is shipped, or is started for transportation from the one state to the other. *Ware v Mobile County*, 146 Ala 163, 41 So 153.

Articles of Confederation. The instrument forming the Confederation of the original thirteen states of the Union which was in force from March 1, 1781, to March 4, 1789. *Owings v Speed*, 18 US (5 Wheat) 420, 5 L Ed 124.

It formed a mere league of states, not a union of, states in a nation, as did the Constitution which superseded it.

Articles of Faith. The creed of the Church of England known as the thirty-nine articles.

articles of impeachment. The formal written charge against the defendant in an impeachment proceeding.

articles of incorporation. The instrument, otherwise known as certificate of incorporation, which states the purpose or purposes for which the corporation is being organized, the place of business, the amount of authorized capital stock and a description of the classes of shares if the shares are to be classified, the amount of paid in capital with which it will begin business, the number of directors, the names and addresses of the directors for the first year, and the names and addresses of the incorporators. 18 Am J2d Corp § 36. The charter, in other words, the organic law of a corporation. 18 Am J2d Corp § 81.

articles of partnership. The agreement signed by the members of a partnership by which they are bound together as partners.

Articles of Religion. Same as Articles of Faith.

articles of roup. (Scotch.) The memorandum of the conditions governing a public auction sale.

articles of set. (Scotch.) A leasehold agreement.

articles of the clergy. An English statute, passed in 1315, concerning clergymen. 9 Edward 11, ch 3.

articles of the navy. Statutory regulations governing the United States Navy.

articles of the peace. The complaint in a proceeding to compel a person to give bond to keep the peace.

Articles of Union. The compact of 1707 uniting the kingdoms of England and Scotland.

Articles of War. See **Code of Military Justice.**

articulate. To prepare a writing under separate clauses or provisions; to express one's thoughts clearly. The word is also an adjective, meaning ability to express; a clear method of expression.

articulate adjudication. (Scotch.) The practice of ascertaining the amount of each debt by itself where several different debts are due one creditor.

articulated pleading. A pleading in separate counts.

articuli. Articles.

Articuli Cleri. Articles of the clergy,---the title of the statute 9 Edward 11, C. 3, passed in 1315 concerning clergymen. See 4 Bl Comm 217.

articuli de moneta. Statutes concerning the English public currency.

Articuli Magnae Chartae. The preliminary forty-nine articles forming the basis for the Magna Charta.

Articuli Super Cartas. Same as **Articuli Super Chartas.**

Articuli Super Chartas. Articles upon the charters-the title of the statute 28 Edward 1, c. 3, the purpose of which was to carry out and enforce the provisions of Magna Charta and Charta de Foresta. See 3 Bl Comm 45.

articulo. To speak distinctly; sometimes loosely used for "**articulus.**"

articulo mortis. At the moment or point of death.

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articulus. An article; a part of a discourse. A moment; a point of time.

artifice. Cunning; deception; a trick; a fraud. State v Hemm, 82 Iowa 609, 617, 48 NW 971.

artificer. A workman or mechanic, as distinguished from an employer of such persons.

artificial. Created by man, not by nature. Having an existence presumed in law only, as a corporation.

artificial boundary. A boundary erected by man, as distinguished from a natural boundary, such as a stream.

artificial force. Natural force captured and channeled by the ingenuity of man.

artificial gas. Gas produced for household and industrial use by the burning of coal.

artificial insemination. The means of impregnating a female other than by sexual intercourse. 10 Am J2d, Bast § 1.

artificial limb. A limb of cork, wood, or other composition fitted and attached to the body in place of an amputated arm or leg.

artificial member. An artificial limb.

artificial person. A person created by law or by authority of law, such as a corporation, as distinguished from a natural person, that is, a human being. See 18 Am J2d Corp § 20.

artificial presumption. A presumption arising by force of the law of the jurisdiction, rather than from logic or probability alone. *People v Hildebrandt*, 308 NY 397, *Holley v Purity Baking Co.* 128 W Va 531, 37 SE2d 729, 167 ALR 648.

artificial succession. See **perpetual succession**.

artificial teeth. See **false teeth**.

artificial watercourse. A watercourse made by the hand of man.

In determining the nature of an artificial watercourse, three things seem generally to be taken into consideration by the courts: first, whether it is temporary or permanent; secondly, the circumstances under which it was created; and, thirdly, the mode in which it has been enjoyed and used. Where the way is of a permanent character, and is created under circumstances indicating that it shall become permanent, and it has been used consistently with such intention for a considerable period, it is generally regarded as stamped with the character of a natural watercourse. See 56 Am J1st Waters § 151.

artisan. A mechanic. A skilled worker in a trade involving work with the hands. *McErlain v Taylor*, 207 Ind 240, 192 NE 260, 94 ALR 1284.

artisan's lien. A lien for services in repairing an article. 33 Am J1st Liens § 16.

artist. A person who produces art, that is something of form and beauty; a performer of ability.

art or process. A term familiar in patent law, meaning the method whereby materials are treated so as to produce a given result. *Expanded Metal Co. v Bradford*, 214 US 366, 53 L Ed 1034, 29 S Ct 652.

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

a rubro ad nigrum. From the red to the black,-from the title of a statute in red ink, to the body of it in black ink.

arura. A ploughing; a day's ploughing.

arva. Plough lands; arable lands.

arx. A fortress or castle.

See **arcium constructio.**

as. For instance; to give an example; to the same amount or degree; equally.

The "as," or Roman pound, was commonly used to express any integral sum, and was divisible into twelve parts or unciae. Hence, twelve monthly payments or unciae were held to amount annually to one pound or as usurarius; and so the usurae asses were synonymous with the usurae centesimae; that is interest at the rate of one per cent per month, or twelve per cent per annum. See 2 Bl Comm 462.

as agent. An identification in signing a contract which relieves the person signing from personal liability. 3 Am 12d Contr § 190.

as a matter of course. See **of course.**

as a result of. A form of exception in a life or accident policy excluding injuries or death in connection with aviation or aeronautics. 29A Am J Rev ed Ins § 1262.

asaver. That is to say; to wit.

as cash. A designation of the status in which commercial paper is taken by a bank. The equivalent of saying that title to the paper passes to the bank. 10 Am J2d Banks § 402.

ascaventer. To publish; to certify.

ascavoir. To be understood; that is; to wit.

ascend. To follow an ascending line of ancestors.

ascendent. One in the ascending line of relationship, father or mother, grandfather or grandmother, great grandfather or great grandmother, etc.

ascendentes. Aseendants.

ascendientes. Ascendants.

ascending line of descent. See **direct ascending line.**

ascent. Climbing; rising; the extension of a genealogical line to the past.

ascertain. To make certain; to fix; to establish with certainty; to establish judicially, that is by the finding and judgment or decree of the court. See *Globe Publishing Co. v State Bank of Nebraska*, 41 Neb 175, 59 NW 683.

ascerte. Certified as to the fact.

asceverer. To assert; to affirm.

as check. Indicating acceptance of commercial paper by a bank for collection only. 10 Am J2d Banks § 402.

ascient. Knowing; with knowledge; with scienter.

ascribere. Same as **adscribere**.

ascriptitii. See **glebae ascriptitii**.

ascriptus. Same as **adscriptus**.

ascun. Someone; anyone.

ascunement. In any manner.

as designated on. Words in a deed, contract to sell, or other instrument concerning real estate, having reference to a map or plat, which, in effect, incorporate the map or plat into the description of the real estate, thereby making the description intelligible. *Mitchell v Moore*, 152 Fla 843, 13 So 2d 314.

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aseir. To sit.

aselees. Sealed.

a sequendo. From the following.

ases. Assessed.

asexualization. Sterilization of a person; an operation performed upon a person for the purpose of preventing procreation.
See **castration**; **vasectomy**.

as his interest may appear. See as **interest may appear**.

aside. See **set aside**.

a simile. From analogy.

as interest may appear. A conventional interest in insurance policies intended to protect, not only the named insured, but a mortgagee, lienor, or other person to the extent of whatever interest such person may have in the insured property at the time of the loss.

The phrase appears most often in loss payable or mortgagee clauses of fire insurance policies. 29 Am J Rev ed Ins § 435.

A stipulation in an assignment of a life insurance policy that the policy is payable as the interest of the assignee may appear means the interest as of the date of the death of the insured, when the policy is to be paid. An assignment of life insurance policies as the assignee's interest in a certain company may appear includes the interest of the assignee as a creditor of

such company, and the rights of the assignee are not affected by the bankruptcy of the company except as the amount of the indebtedness is reduced by dividends on the assignee's claim filed in the bankruptcy proceedings; nor are such rights affected by the bankruptcy of the company. 29 Am J Rev ed Ins § 682.

as is. See **sale as is**.

ask. To petition; to include in a prayer for relief.

asking price. The price at which a landowner lists his property for sale with a real estate broker. 12 Am J2d Brok § 111.

A societate nomen sumpserunt, reges enim tales sibi associant. They took their name from the society, for they were the associates of the king. See 1 Bl Comm 398.

as of course. As a matter of course; as a matter of right; without the interposition of the court. Stoddard v Treadwell, 29 Cal 281.

See **amendment as of course; motion of course**.

asoyne. Same as **essoign**.

as paper. Indicating acceptance of commercial paper by a bank for collection only. 10 Am J2d Banks § 402.

aspect. View; possibility.

See **contingency with a double aspect**.

as per. In accordance with. 17 Am J2d Contr § 281.

Thus, a merchant shipping goods in compliance with a letter of instructions to that effect, may write, "I have this day shipped goods as per instructions contained in your letter," meaning in accordance with the instructions; and one who draws bills upon another by agreement may write, "as per agreement, I have drawn," etc., meaning in accordance with, or subject to our agreement, or as by agreement authorized, I have drawn, etc. Continental Bank & Trust Co. v Times Publishing Co. 142 La 209, 76 So 612.

as per contract. In accordance with the contract. Words which destroy the negotiability of a bill or note when incorporated in the terms thereof. 11 Am J2d B & N § 143.

asperse. To defame; to slander or libel.

aspersive. Defamatory; slanderous; libellous.

asphalt. A bitumen, a constituent of a mixture used in paving streets and highways, found in a natural state or obtained by the processing of crude oil.

asphyxia. A condition of unconsciousness resulting from want of oxygen or too much carbon dioxide in the blood; a stopping of the pulse from the same cause. State v Baldwin, 36 Kan 1, 12 P 318. A condition caused as well by carbon monoxide in the blood. Davey v Turner, 55 Ga App 786, 191 SE 383; 29A Am J Rev ed Ins § 1279.

asphyxiation. A state of asphyxia. Suffering asphyxia.

See **asphyxia**.

aspirin. Acetylsalicylic acid; much used in tablet form for relieving headache.

asport. To carry away in the commission of larceny.

asportare. To carry away.

asportation. The act of carrying away.

In larceny it is the carrying away of the goods following the caption or taking possession of them; it is the very first act of removal of the property and may consist of the least removing of the thing taken ' See 32 Am J1st Larc § 17. Asportation is also an essential element of the crime of robbery. The taking of absolute control of the property, even for an instant, constitutes asportation. 46 Am J1st Rob § 6.

asportator. One who carries away stolen goods.

asportatus. Carried away.

asportavit. He carried away.

Aspris facetiis inlusus, quae ubi multum ex vero traxere, acrem sui memoriam relinquunt. Being teased with cutting jests which when they are almost true leave a bitter remembrance. 4 Bl Comm 151.

A. S. R. See **Am. St. Rep.**

as result of pregnancy. Resulting from pregnancy. Anno: 97 ALR2d 1068.

ass. A donkey, a dull or incompetent person; a very common and unrefined expression for buttocks. An abbreviation of **assize**.

assach. (Welsh) An oath made by compurgators.

assaia. Same as assay.

assaia mensurarum et ponderum. The assay of measures and weights.

assailant. A person who assails, or who assaults another; the aggressor. Scales v State, 96 Ala 69, 75, 11 So 121.

assaith. Same as **assath**.

assallire. To assault.

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assaltus. An assault.

assart. To root up trees; to deforest land; the land so deforested.

assartare. To assart.

assartments. Same as **assart rent**.

assart rent. Rent paid for land which had been deforested.

assassin. One who murders, striking suddenly and without warning, often for pay, sometimes from misguided motives, and usually making an important personage a victim.

assassination. The commission of a murder treacherously, with violence, for hire or as a member of a group devoted to killing.

assassinator. An assassin.

assath. Same as **assach**.

assault. A demonstration of an unlawful intent by one person to inflict immediate injury on the person of another then present; an intentional attempt by a person, by force or violence, to do an injury to the person of another; an attempt to commit a battery, or any threatening gesture showing in itself or by words accompanying it an immediate intention, coupled with the present ability, to commit a battery. 6 Am J2d Asslt & B § 3. An act, other than the mere speaking of words, which directly or indirectly is the legal cause of putting another in apprehension of an immediate and harmful or offensive contact, rendering the actor civilly liable, if he intends thereby to inflict a harmful or offensive contact upon the other or a third person or to put the other or a third person in apprehension thereof, and the act is not consented to by the other, or otherwise privileged. Restatement, Torts § 21(1).

The prolonged, excessive, and emotionally distressing interrogation of a civilian by a sergeant assigned to the Army's Criminal Investigation Division, which interrogation results in the temporary insanity of the civilian, constitutes an "assault" which is expressly excepted from the coverage of the Federal Tort Claims Act. *United States v Hambleton* (CA9 Wash) 185 F2d 564, 23 ALR2d 568. As the term "assault" appears in an exception, in a life or accident insurance policy, which relieves the insurer from liability for injuries or death sustained in such an altercation, it imports fault on the part of the insured. 29A Am J Rev ed Ins § 1201.

See **aggravated assault; civil assault; criminal assault**.

assault and battery. An assault upon a person carried into effect by striking him, throwing him down, or otherwise doing some violence to him. *Rell v State*, 136 Me 322, 9 A2d 129, 125 ALR 602.

assault with a dangerous or deadly weapon. An assault aggravated by the means used, a weapon inherently dangerous or capable of use in a deadly or dangerous manner. 6 Am J2d Asslt & B § 53.

assault with intent to kill. A criminal offense constituting a felony in some jurisdictions, a great, aggravated, or serious misdemeanor in others, and a mere misdemeanor in still other jurisdictions. 26 Am J1st Homi § 597.

assault with intent to rape. An aggravated assault. 6 Am J2d Asslt, & B § 55.

To constitute this crime, two essential ingredients must coexist, and must be established by the evidence beyond a reasonable doubt; first, an assault, and, second, an intent to commit rape. It must appear, not only that the defendant intended to have carnal knowledge of the woman alleged to have been assaulted, forcibly and against her will, but that he did some overt act towards the accomplishment of his purpose, which amounted in law to an assault upon her. See 44 Am J1st Rape § 2 1.

assaut. An old spelling of assault.

assay. An examination or test; a trial or test by analysis of ore, especially to determine gold or silver content; a comparison of weights or measures with the standards for them.

assaya. Same as assay.

assayator regis. The assayer of the king.

assayer of the king. A government officer of the king's mint having the duty of testing coins and bullion.

assayer of the mint. A government officer having the duty of testing coins and uncoined gold and silver.

asseal. To seal; to affix a seal.

assecurare. To make secure; to give security.

assecuratio. Assecuration.

assecuratio. Assurance; marine insurance.

assecurator. An insurer.

assembly. A meeting of several persons; the name given to the lower house of the legislature in some states. A constitutional right under the First Amendment to the Constitution of the United States. A constitutional guaranty cognate to the rights of free speech and free press. 16 Am J2d Const L § 354. The right of the people to meet for the purpose of petitioning the legislative body for a redress of grievances, for any purpose connected with the powers or duties of government, or for the purpose of advancing ideas and airing grievances. *Bates v Little Rock*, 361 US 516, 4 L Ed 2d 480, 80 S Ct 412.

See **General Assembly; unlawful assembly.**

assembly general. The highest Scotch ecclesiastical court.

assensu curiae. See **ex assensu curiae.**

assensu suo. See **ex assensu suo.**

assent. Consent by one person to what another person has done or what he agrees to do. An element of a contract, but objective in its manifestation, a matter of overt acts, not of inward motives, design, or interpretation of words. *Sokoloff v National City Bank*, 239 NY 158, 145 NE 917, 37 ALR 712, 719.

See **consent; mutual assent.**

assenter. To assent.

assert. To declare; to allege positively.

assertare. Same as **assartare.**

asserte. Same as **assart**.

assertory covenants. Affirmative covenants.

assertory oath. An oath which asserts a statement of fact, as in an affidavit, in distinction to an oath which pledges future conduct, as in the oath of a public officer taken in assuming the office. 39 Am J1st Oath §4.

asses. Sufficient; satisfaction.

assess. To list and value properties for the purpose of taxation. 51 Am J1st Tax § 647. To call upon the

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members of an association or other organization for contributions, as in the case of a mutual benefit society or beneficial order. To make an estimate.

assessed valuation. A listing and valuation of property as a basis upon which taxes are to be collected. Anno: 156 ALR 594.

assessed value. The value of property as estimated and fixed by the proper authorities for purposes of taxation. Baisden v Greenville, 215 Ala 512, 515, III So 2.

assessment. In the most common sense, the imposing of a tax by a listing of the persons and property to be taxed and a valuation of the property of each person as a basis of apportionment and levy, such acts usually being performed by administrative officers but sometimes by the legislature. State v Clement Nat. Bank, 84 Vt 167, 78 A 944. A special assessment, one imposed upon property within a limited area for the payment of a local improvement supposed to enhance the value of all property within that area. 48 Am J1st Spec A § 3. A call upon subscribers to corporate stock for payment of their subscriptions, or, if the subscriptions have been paid, a levy upon the stock for the purpose of correcting an impairment of capital. 18 Am J2d Corp § 346. Substantially, the equivalent of a premium collected by at) insurance company, being the sum specifically levied by a mutual insurance company or association operating upon a fixed and definite plan, to pay losses and expenses, the sum being the consideration for the insurance provided. 29 Am J Rev ed Ins § 501. The levy against a member of a mutual benefit society or a fraternal benefit society as his share of the amount to be paid for the benefits extended by the society under the terms of his contract. 38 Am J2d Frat O § 88.

The word comes from the Latin words "ad," meaning "to," and "sedere," meaning "sit," through the Middle Latin "assessare," to "fix a rate" or "impose a tax." Thus, within limitations, the word "assessment" and "tax" can be employed synonymously. 48 Am J1st Spec A § 3.

In construing the expression "all taxes levied and assessed," as used in a statute governing ad verse possession, it was held that the word "levied" referred to the act of the county board in making the levy, and that the word "assessed" referred to the act of the assessor in making the assessment. Allen v McKay & Co. 120 Cal 332, 52 P 828.

assessment association. See **benevolent association; mutual benefit society**.

assessment contract. See **assessment plan; assessment policy**.

assessment district. A unit of territory for the assessment of property for taxation; a district specially benefited by a local public improvement with the consequence that a special or local assessment is made against the property in the district to finance the improvement. 48 Am J1st Spec A § 114.

assessment for benefits. See **special assessment**.

assessment fund. See **assessment policy**.

assessment labor. See **assessment work**.

assessment list. A schedule of the taxable Persons and properties in a political subdivision. *Wilson v Wheeler*, 55 Vt 446.

assessment of corporate stock. See **stock assessment**.

assessment of damages. Measuring and fixing the amount of compensatory damages. 22 Am J2d Damg §§ 45 et seq.

assessment plan. A plan of insurance whereby the payment of the benefit is in some manner or degree dependent upon the collection of an assessment upon persons holding similar policies. 29 Am J Rev ed Ins § 501. A form of insurance, also called the "natural premium plan," wherein the insurance company limited its assessments or premiums to such a sum as was necessary to cover the actual cost of insurance from one renewal period to another. *Westerman v Supreme Lodge, Knights of Pythias*, 196 Mo 670, 94 SW 470.

assessment policy. A policy issued by a mutual benefit society which contains the provision that on the death of a member, an equal or flat assessment shall be levied on all members, irrespective of age, for the purpose of creating a fund to be paid the beneficiary of a deceased member. *Allin v Motorists Alliance of America*, 234 Ky 714, 29 SW2d 19, 71 ALR 688.

See **assessment plan**.

assessment work. A mining law term, meaning work required to be performed on a mining claim each year.

See **annual assessment labor**.

assessments of mutual benefit society. The amounts levied against members for the purpose of the payment of benefits extended by the society under the terms of their contracts or certificates of membership. 38 Am J2d Frat O § 88.

assessor. An officer whose duty it is to make an assessment of property, usually for the purpose of levying and collecting a tax. 51 Am J1st Tax § 662.

assessores. Assessors; masters in chancery. In civil law, advisors of magistrates.

assessors in admiralty. See **nautical assessors**.

assessus. Assessed.

assets. The property of a natural person or a corporation, real or personal, corporeal or incorporeal, especially property which is subject to seizure under and sale under process for payment of debts.

See **admitted assets; assets of a debtor; assets of a decedent's estate; marshaling assets; partnership assets**.

assets entre mains. Assets in hand.

assets in futuro. See **expectancy; judgment of assets in futuro.**

assets of a debtor. Any property which is in the debtor's name, or the title to which would be vested in him if a fraudulent conveyance were to be set aside. *Dorrington v Jacobs*, 213 Wis 521, 252 NW 307, 91 ALR 737.

assets of a decedent's estate. Property subject to the payment of the debts of the decedent, including real and personal, corporeal and incorporeal, property, but not homestead and other exemptions. 31 Am J2d Ex & Ad § 193.

The term has also been defined as being whatever property or money is lawfully recovered or received by an executor or administrator in virtue of his representative character. *De Valengin's Admr. v Duffy* 14 Pet (US) 282, 10 L Ed 457.

assets per descent. Property which descends to the heir and not to the executor.

asseveration. The solemn affirmation of the truth of a statement.

assewiare. To draw or drain water from marshy land.

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assez. Same as **asses.**

assidenda. To be assessed.

assidere. To assess; to make an assessment for taxation.

assidere, taxare et levare. To assess, tax, and levy.

Assiderunt et taxarunt. Assessed and taxed.

assiento. One of many contracts of the Spanish government with other countries and with traders for furnishing negro slaves to Spanish America prior to 1750.

assiete. An assignment.

assign. Verb: To transfer, set over or grant, especially choses in action; to designate or point out. Noun: One to whom a right is assigned. An assignee.

See **assignee; assignment.**

assignable. Capable of being lawfully as signed or transferred; capable of being specified or pointed out; as an assignable error; transferable.

assignable chose in action. A chose in action which is of such nature as to be subject to transfer to another, so as to give ownership to the latter. The assignability of things in action is now the rule and non-assignability the exception. 6 Am J2d Assign § 7.

assignable error. An error occurring at the trial of a cause capable of being pointed out or specified on appeal.

assignable lease. A lease which can be sold, transferred, and assigned by the lessee without permission from, or consent of, the lessor. *Stillman v Lynch*, 56 Utah 540, 192 P 272, 12 ALR 552, 560.

assignando. See **dote assignando**.

assignare. To assign; to seal.

assignati. Assignees; assigns.

assignatio. An assignment.

assignment. An assigning; a tryst or secret place of meeting Of lovers, particularly lovers having meretricious relations.
See **house of assignment**.

assignator. An assignor.

assignatus. An assignee; an assign.

Assignavimus ad itinerandum. Assigned for the circuit.
See **assizes**.

Assignavimus vos justitarios nostros, ad inquirendum. Assigned to make inquiry.
See **assizes**.

assignay, or assigney. (Scotch.) An assignee.

assigned risk plan. An arrangement, in a state where automobile liability insurance is compulsory, whereby risks, which otherwise insurers would decline, are imposed by law upon particular insurers, so that all drivers and vehicles residing or located in the state are covered.

assignee. A person to whom a right is assigned, that is, the one to whom an assignment is made. 6 Am J2d Assign § 2. A person who becomes invested with the right of another person through some voluntary act of that other person. *United States v Colorado Anthracite Coal Co.*, 225 US 219, 56 L Ed 1063, 32 S Ct 617. More broadly defined as including all those who take either immediately or remotely from or under the assignor, whether by conveyance, devise, descent, or act of law. *Hoffeld v United States*, 186 US 273, 46 L Ed 1160, 22 S Ct 927.

Where there are no qualifying words, the term in its usual meaning refers to an assignee in fact and does not comprehend an assignee by mere operation of law, such as a surviving partner. *Burlington Nat. Bank v Beard*, 55 Kan 773, 42 P 320. The words "assignee of such deceased person" in a statute disqualifying an adverse party as a witness is limited to an assignee in fact, and does not include an assignee by mere operation of law. So construed, the word does not include a legatee, a purchaser at an execution sale, or a trustee appointed on the death of a testamentary trustee. 58 Am J1st Witn § 335.

assignee at law. A person who merely by operation of law succeeds to the right, title, or interest of another. *Burlington Nat. Bank v Beard*, 55 Kan 773, 42 P 320.

assignee for the benefit of creditors. The person, firm or corporation to whom or to which an assignment for creditors is made. 6 Am J2d Assign for Crs § 89.

assignee in bankruptcy. See **trustee in bankruptcy.**

assignee in fact. An assignee to whom his assignor makes an actual transfer of that which is assigned, as distinguished from a transfer by mere operation of law. *Burlington Nat. Bank v Beard*, 55 Kan 773, 42 P 320.

assignee in insolvency. The person to whom an insolvent debtor makes an assignment for the benefit of his creditors.
See **trustee in bankruptcy.**

assignee in law. Same as **assignee at law.**

assignee in trust for the benefit of creditors. An assignee in insolvency. Anno: 113 ALR 745.

assignee of patent. A person who holds, by a valid assignment in writing, the whole interest of a patent, or any undivided part of such whole interest, throughout the United States. *Moore v Marsh*, 74 US (7 Wall) 515, 19 L Ed 37.

assignee's fees. The compensation of an assignee under an assignment for the benefit of creditors. 6 Am J2d Assigns for Crs § 91.

assignment. A transfer or setting over of property, or of some right or interest therein, from one person to another, and unless in some way qualified, the transfer of one's whole interest in an estate, chattel, or other thing. 6 Am J2d Assign § 1.

The word is ordinarily used in reference to choses in action.

See **equitable assignment; general assignment; preferential assignment; reassignment; voluntary assignment.**

assignment by delivery. The transfer of title to a chose in action by handing over to the assignee the evidence or symbol of title or ownership, such as a negotiable note, warehouse receipt, etc. 6 Am J2d Assign § 92.

assignment for the benefit of creditors. An assignment and transfer by a debtor, without consideration paid by the grantee, of substantially all the assignor's property, corporeal and incorporeal, to a person in trust to collect the amounts owing on obligations due the assignor, to sell and convey the

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property, to distribute the net proceeds of all the collections, sales, and conveyances among the creditors of the assignor, and to return the surplus, if any, to the assignor. 6 Am J2d Assign for Crs § 1.

assignment in bankruptcy. See **bankruptcy; trustee in bankruptcy.**

assignment in fact. See **assignee in fact.**

assignment in law. See **assignee in law.**

assignment of contract. The transfer by a party to a contract of his right and interest therein, subject to the performance of terms and conditions to which the other party to the contract is entitled.

A provision against assignment of contract is sometimes construed as one against the assignment of money payable or due thereunder. Anno: 37 ALR2d 1260.

See **assignee at law; assignment by delivery.**

assignment of copyright. The transfer or setting over to another by the owner of a copyright of his entire interest or a part of his interest in the copyright. 18 Am J2d Copyr § 89.

assignment of counsel. The appointment by the court of attorneys to defend indigent persons accused of crime, who are without counsel, and without the means of employing legal assistance. 21 Am J2d Crim L § 318.

assignment of dower. The remedy for segregating from the estate of a decedent the part to which the surviving spouse is entitled to by right of dower; the actual setting off or designation of that to which the surviving spouse is entitled by right of dower. 25 Am J2d Dow §§ 178 et seq.

assignment of errors. A specification of the alleged errors committed by the lower court and designated by the party complaining of them as grounds for reversal. 5 Am J2d A & E § 648.

assignment of insurance. A transfer by the insured of an insurance policy without the consent of the insurer or with the consent of the insurer where such consent is required on account of the nature of the policy. 29 Am J Rev ed Ins § 652.

assignment of lease. A transaction whereby a lessee transfers his entire interest in the demised premises or a part thereof for the unexpired term of the original lease. 32 Am J1st L & T § 313. A lease by the lessee of the whole of his unexpired term. *Bedford v Terhune*, 30 NY 453.

assignment of patent. The transfer by a patentee to another person of the whole of his interest in a patent for an invention issued to him by the United States, or of any undivided portion of, or rights in, such patent; a similar transfer by an assignee of a patent. 40 Am J1st Pat § 133.

assignment of policy. See **assignment of insurance.**

assignor. A person who assigns a right, whether he be an original owner or an assignee. 6 Am J2d Assign § 1.

assigns. Assignees, particularly assignees by voluntary act, that is assignees in fact, as distinguished from assignees by operation of law. *United States v Colorado Anthracite Coal Co.* 225 US 219, 56 L Ed 1063, 32 S Ct 617.

The word is often used in drafting legal instruments to denote the assignable nature of the interest or right created. The use of the word "assigns" indicates the intention of the parties to a contract that the contract is assignable, although it is not conclusive upon the question of assignability. 6 Am J2d Assign § 10. Some of older authorities adhere to the strict rule that the use of the word "assigns" is essential in impressing upon a covenant the character of running with the land, but the better view seems to be that although covenants intended to charge the land may be shown by the employment of the word "assigns," such intention may be quite as strongly indicated by other language contained in the deed. 20 Am J2d Cov § 32.

assigns forever. See **successors and assigns forever.**

assilire. To assault.

Assimilative Crimes Act. A federal statute which provides for punishment in the federal courts of a person guilty of conduct on a federal enclave which is punishable as a crime under the law of the state in which the enclave is situated. Anno: 2 L Ed 2d 1686, § I [a].

assimilative pay. Similar compensation for officers of the army and navy of the same rank. 36 Am J1st Mil § 69.

assisa. Same as **assize**.

assisa armorum. An English statute ordering the keeping of arms.

assisa cadere. To be nonsuit.

See **judgment of nonsuit**.

assisa continuanda. A writ granting a continuance of the assize to allow the production of papers.

Assisa de Clarendon. A statute passed in 1164 staying the exile of felons for forty days within which time they might get contributions for their support.

assisa de foresta. See **assize of the forest**.

Assisa de Mensuris. An English statute passed in 1198, regulating weights and measures.

assisa de nocumento. A writ to abate a nuisance.

assisa de nova disseisima. Same as **assize of novel disseisin**.

assisa de ultima presentatione. Same as **assize of darrein presentment**.

assisae statutae et juratae. Assizes established and sworn.

assisae statutae panis. The assize and assay of bread, i. e. a governmental examination into the quality of bakers' bread.

assisa forestae. Same as **Assize of the Forest**.

assisa firiscae fortiae. Same as **assize of fresh force**.

assisa generalis. The general assize, an old name for Parliament.

assisa juris utrum. Same as **assize of utrum**.

assisa mortis antecessoris. Same as **assize of mort d'ancestor**.

assisa novae disseysinae. Same as **assize of novel disseisin**.

assisa panis et cerevisiae. A statute regulating measures of bread and ale.

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assisa proroganda. A writ to stay proceedings where one of the parties to the action is engaged on the business of the king.

See **de assisa proroganda**.

assisa ultinae presentationis. Same as **assize of darrien presentment**.

assisa venit ad recognoscendum. The assize came to recognize.

assise. Same as **assize**.

assisers. (Scotch.) A body which performed similar functions to those of the modern grand jury.

assistance of counsel. The right of one accused of crime to have legal counsel for his defense as provided by the Sixth Amendment to the United States Constitution or by a state constitution. 21 Am J2d Crim L §§ 309 et seq.

assistance writ. See **writ of assistance**.

assistant. One who aids, helps, or assists. 37 Am J1st Mon Corp § 273.

In the absence of a statute to the contrary, his capacity is more clerical than otherwise. The word is far from being synonymous with "deputy" which is the designation of a person who is appointed to act for another. *Naill v State*, 59 Tex Crim 484, 129 SW 630.

assistant bishop. (Eccles.) The assistant of the bishop of a diocese; a bishop coadjutor.

assistant rector. See **deacon**.

assisus redditus. Fixed or certain rent.

assith. To indemnify.

assithment. A Scottish action to obtain damages for murder.

assize. A word of such meanings and nuances in the law of England, especially the earlier law, that accurate and comprehensive definition is impossible. Noun: A court; a statute; a tax; the verdict of a jury in a court of assize; a writ; a jury summoned by a writ of assize; an action to recover land of which plaintiff's ancestor had been disseised. Verb: To fix; to regulate.

Assize of Arms. The statute (27 Hen 11) requiring all freemen to furnish arms according to their wealth and station.

Assize of Clarendon. An English statute of 1166 which provides that persons of bad character should depart from the kingdom, although they had been acquitted on a trial by compurgation.

assize of fresh force. A writ to recover lands of which the demandant had been disseised within forty days.

assize of mort d'ancestor. Assize of the death of the ancestor; a writ of assize to recover land from an abator of which the demandant's father or mother, brother or sister, uncle or aunt, nephew or niece had died seised. See 3 Bl Comm 185.

assize of novel disseisin. An assize of new disseisin, -a writ of assize to recover land of which the demandant had been recently seised. See 3 Bl Comm 187.

assize of nuisance. A common-law writ for nuisance with the two-fold purpose of abatement and the recovery of damages.

At common law this writ did not lie against the alienee of a wrongdoer, for the purchaser was to take the land in the same condition it was conveyed to him, but it lay against the wrongdoer himself, who levied or did the nuisance. This was changed by the statute of Westminster 2, 13 Edw. 1, c. 24, which gave a remedy against either vendor or vendee. 39 Am J1st Nuis § 117, note.

Assize of The Forest. A statute passed under Edward I, concerning the king's forests.

assize of utrum. A writ by which a parson recovered lands which had been disposed of by his predecessor.

assizer. A member of the grand assize.

assize rent. Fixed rentals of freeholders and copyholders of a manor.

assizes. Sessions of the judges; more specifically, the sessions of the two or more judges who were sent out as commissioners of the king semiannually by the king's commission from Westminster on circuits covering the kingdom to try before a jury of the appropriate county any cases which were assigned to them.

These judges were called judges of assize or judges of assize and nisi prius.

Assizes of Jerusalem. A compilation of the feudal law made under Godfrey of Bouillon after the conquest of Jerusalem in 1099.

ass. mor. ant. Abbreviation of **assize of mort d'ancestor**.

ass. no. diss. An abbreviation of **assize of novel disseisin**.

associate. One engaged in the practice of law with another attorney at law or firm of attorneys at law but not as a partner or member of the firm. A member of an association. In the broad sense, one joined with another or others in the pursuit of a common purpose or design whether such be good or bad. *Weir v United States* (CA7 Ind) 92 F2d 634, 114 ALR 481.

associate counsel. An attorney at law associated in the prosecution or defense of a civil action or criminal prosecution with the attorney of record.

Associated Press. A well-known private organization for the gathering and dissemination of news, serving newspapers in its membership throughout the world.

associate justice. A justice of an appellate court who sits and decides with a chief justice and one or more other associate justices.

In a case at bar, his opinion is as conclusive as that of the chief justice, although the latter is in charge of the administration of the court business.

association. A collection of persons who have joined for the pursuit of a common purpose or design.

In the absence of a statute so providing, it is not an entity, having no status distinct from the persons composing it, but is rather a body of individuals acting together for the prosecution of a common enterprise without a corporate charter but sometimes assuming to exercise methods and forms used by corporations. *Hecht v Malley*, 265 US 144, 157, 68 L Ed 949,

957, 44 S Ct 462; Venus Lodge No. 62 v Acme Benev. Asso. 231 NC 522, 58 SE2d 109, 15 ALR2d 1446, 6 Am J2d Asso & C § 1.

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At times, nonprofit corporations are referred to as “associations.” Conversely, nonprofit associations are often regarded as so closely akin to corporate entities that the associates are not liable as partners for the debts of the body. 6 Am J2d Asso & C § 2.

In reference to the federal income tax, an association is ordinarily taxable as a corporation. Internal Revenue Code § 7701(a)(3).

See **articles of association; joint stock company; partnership; voluntary association; writ of association.**

association placer claim. A placer mining claim located under statute by an association of eight or more persons and including a maximum of 160 acres. 36 Am J1st Min & M § 91.

association theory. A doctrine of the law of master and servant that the master will not be excused for negligence resulting in injury to one servant which is inflicted by a fellow-servant, unless the servants are so engaged and situated as that each by carefulness and attention in the performance of his duties may protect himself from injury caused by the negligence of the person with whom he is working. Chesapeake & Ohio Railroad Co. v Brown, 152 Ky 479, 484, 153 SW 753.

Such doctrine, while salutary in its day, has become of little more than historical interest since the enactment of employers' liability acts which nullify the fellow-servant rule.

associe en nom. (French law.) A member of a limited liability company who is liable for the debts of the company, his name appearing in the firm name.

assoigne. Same as **essoign.**

assoil. (Eccles.) To forgive or discharge one from an excommunication; to acquit; to set free.

assoilzie. Same as **assoil.**

assoinsie. Same as **essoign.**

as soon as. A qualifying phrase in a contract which indicates a condition of performance. 17 Am J2d Contr § 320.

as soon as possible. Within a reasonable time, for the purposes of a condition as to time of payment of goods bought in credit. 46 Am J1st Sales § 190. Implying something other than immediacy, whether used in a contract of sale, 46Am J1st Sales § 164; or in an application made to a carrier for a car. 13 Am J2d Car § 153.

Appearing in an insurance policy provision for notice of loss, the phrase means notice within a reasonable time under the circumstances of the case. Anno: 23 ALR2d 1083; 29A Am 1 Rev ed Ins § 1379.

as soon as practicable. See notice as soon as practicable.

assoyl. Same as **assoil.**

assultus. An assault.

assume. In ordinary parlance, to assume means to undertake; to engage; to promise. In matters of law, to take upon one's self. Springer v De Wolf, 194 Ill 218, 62 NW 542.

See **assumption of charge on land; assumption of mortgage; assumption of obligation.**

assumed name. See **fictitious name.**

assumed risk. See **assumption of risk.**

assumpsereunt super se. They undertook.

assumpsit. A common law action by which compensation in damages may be recovered for the nonperformance of a contract express or implied, written or verbal, but not under seal and not of record. Board of Highway Comrs. v Bloomington, 253 Ill 164, 97 NE 280; 1 Am J2d Actions § 11.

See **common counts; express assumpsit; indebitatus assumpsit; money counts; money had and received; money lent; money paid; nonassumpsit; nunquam indebitatus.**

assumpsit pro rata. He undertook according to the proportion.

assumption clause. A clause in a deed, lease, or other transfer of property whereby the transferee assumes some obligation of the transferrer chargeable against the property. See 37 Am J1st Mtg §§ 994, 997.

assumption of charge on land. The agreement of the transferee of property to pay obligations of the transferrer which are chargeable on it. Springer v De Wolf, 194 Ill 218, 62 NW 542.

assumption of debt. See **assumption of obligation.**

assumption of employer's knowledge. An assumption, arising upon employer's assurance of the safety of an operation to be undertaken by an employee, the effect of which is to overcome the defense of assumption of risk. 35 Am J1st M & S § 321.

assumption of mortgage. An agreement by the grantee of mortgaged premises to pay the debt secured by the mortgage. 37 Am J1st Mtg § 997.

There is a broad and obvious distinction in the effect there of upon the rights of the parties, between the taking of mortgaged property subject to a mortgage subsisting thereon at the time of such taking, and the assumption or agreement by the grantee to pay the debt secured by such mortgage, in that, where the purchaser or grantee of the mortgaged property takes it subject to the mortgage only, there being no express or implied agreement to assume the mortgage debt, he is bound only to the extent of the property, but if the debt be assumed by the grantee, he becomes the principal debtor, while the mortgagor becomes the Surety. Brichetto v Raney, 76 Cal App 232, 245 P 235; 37 Am J1st Mtg § 982.

assumption of obligation. Undertaking to substitute one's self in the place and stead of the obligor; agreeing to discharge the obligation by payment. Stout v Folger, 34 Iowa 71.

assumption of risk. A defense against liability for negligence which is based upon the principle that one who knows, appreciates, and deliberately exposes himself to a danger assumes the risk thereof. 38 Am J1st Negl § 171.

An employee by his very act of entering the service of the employer-by his very contract of employment-assumes the ordinary risk of the service or such as usually are incident thereto, and accordingly has no common-law right of action against the employer for an injury sustained solely by reason of such a risk. 35 Am J1st M & S § 293. The doctrine of assumption of

the risk, as applied in the master and servant cases, has been abolished as a defense in most American jurisdictions. 35 Am J1st M & S § 297. There is still scope for the application of the defense in other cases, however, since the better view is that it is not limited to cases where there was a contract relationship between the injured party and the defendant. 38 Am J1st Negl § 171.

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assurable. Insurable; constituting a valid insurance risk.

assurance. Any written instrument evidencing title to real property; insurance.

See **collateral assurance; common assurances; covenant for further assurance; insurance.**

assurance fund. A fund provided in states which have the system of registration of land titles for the indemnification of those who lose their property through fraud or error, and who are without other means of redress. 45 Am J1st Reg L T § 8.

assure. To insure; to issue or to take out insurance.

assured. Ordinarily, synonymous with "insured." 29 Am J Rev ed Ins § 239. In some contexts, the person for whose benefit a policy of life insurance was made or taken, especially where he is the person who applied for the policy and pays the premiums. *Conn. Mut. Life Ins. Co. v Luchs*, 108 US 498, 27 L Ed 800, 2 S Ct 949; 29 Am J Rev ed Ins § 239.

See **insured.**

assured clear distance. The distance from which discernible objects, reasonably expected or anticipated to be upon the highway, may be observed. *Snook v Long*, 241 Iowa 665, 42 NW2d 76, 21 ALR2d 1; Anno: 31 ALR2d 1424.

The "assured clear distance ahead" of a motorist traveling at night, under a statute prohibiting a speed greater than will permit a motorist to stop within such distance, is the limit of his vision ahead afforded by the lights of his car, in the absence of any intermediate discernible obstruction. *Erdman v Mestrovich*, 155 Ohio St 85, 97 NE2d 674, 31 ALR2d 1417.

assured clear distance ahead. The limit of a motorist's vision of the highway ahead. *Erdman v Mestrovich*, 155 Ohio St 85, 97 NE2d 674, 31 ALR2d 1417. A variable distance, since it constantly changes as the motorist proceeds, being measured at any moment by the distance between the motorist's vehicle and the limit of his vision ahead, or by the distance between the motorist's vehicle and any intermediate discernible static or forward-moving object in the highway ahead constituting an obstruction in the motorist's lane of travel. 7 Am J2d Auto and H T § 188.

assurer. An insurer; an underwriter.

assysers. Same as **assisers.**

assythement. A Scotch law action for damages for murder.

astigmatism. A common impairment of eyesight; one that is easily corrected by eye glasses. *Baker v State*, 91 Tex Crim 521, 240 SW 924, 22 ALR 1163, 1165.

astipulate. To stipulate; to agree.

astitution. See **astution.**

astrarius haeres. An heir whom an ancestor has placed in the house which is to be his inheritance.

astrer. A householder.

astrict. To restrict; to bind; to impose an astriction.

astriction. A servitude which "astricts" or binds a tenant, as where it binds him to have the corn raised upon the land to be ground at a certain mill.

astrihiltet. An ancient Saxon penalty of double damages for a wrong done.

astrology. The craft whereby fortunes are told ostensibly by reference to the positions and courses of the stars and other heavenly bodies.

astronomical day. From noon of one day until noon of the next.

astrum. A house; a hearth.

as trustee. A designation made in the execution of a contract by a trustee, which, in itself, is not sufficient to save the trustee against personal liability on a contract. 54 Am J1st Trusts § 352.

as trustee but not individually. An expression used by a trustee in the execution of a contract which should protect him against individual liability on the obligation. 54 Am J1st Trusts § 352.

astuti. Cunning; crafty; acute.

astution. An arraignment.

A summo remedio ad inferiorem actionem non habetur regressus neque auxilium. A person cannot resort to an inferior remedy after having pursued a higher one.

as well as. And also.

asylum. A sanctuary; place where a person is immune from arrest; a state or country to which a person flees to escape arrest in another state or country. An institution for receiving, maintaining, and, as far as possible, ameliorating the condition of persons suffering from bodily defects, mental maladies, or other misfortunes, such as an asylum for the blind, an institution for the insane, and an orphan asylum. 26 Am J1st Hospit § 2.

Under a statute providing that no divorce shall be granted because of incurable insanity unless such person shall have been duly and regularly committed to and confined in a hospital or asylum for the insane, the words "hospital or asylum" mean an institution which under the law is authorized to accept insane persons for care and treatment. Anno: 15 ALR2d 1137

asylum state: A state to which a person has fled after having committed a crime in another state. The term is one commonly used in extradition matters. 31 Am J2d Extrad § 18.

at. A word the significance of which is usually controlled by the entire context. Johnson v Cunningham, 107 Miss 140, 65 So 115. A relative term, signifying nearness when applied to a place. Rogers v Galloway Female College, 64 Ark 627, 44 SW 454; Los Angeles County v Hannon, 159 Cal 37, 43, 112 P 878; 23 Am J2d Deeds § 243. As a designation of time,

sometimes denoting a fixed and definite point of time, as where the court admonishes the jury, "be back at 2 P.M.," and, at other times, meaning from or after, as where the provision in a will is that the property of the decedent shall be sold "at the death" of the life tenant named by him. 52 Am J1st Time § 31.

atamita. A sister of a great-great-greatgrandfather.

at and from. A phrase determinative of the attachment of the risk under a marine insurance policy, the same being effective only as a specified place or port is designated. 29 Am J Rev ed Ins § 326.

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at any bank. A phrase which, as the place of payment of a promissory note, is indefinite, so that the maker has the right to require the holder to make an election as to which bank shall be the place of payment, and, in default of such election being made by the holder, to make his own election and give notice thereof to the holder. 11 Am J2d B & N § 972.

at any time. A phrase of relative meaning to be construed according to the particular context in which it appears.

Under a statute providing that anyone claiming an interest in the litigation may "at any time" be permitted to assert his right by intervention, it has been held that intervention may be allowed while the suit is pending in court, but not after the entry of final judgment. Anno: 37 ALR2d 1327.

As used in a statute authorizing a state bond issue and providing that the bonds shall be payable in not less than ten years or more than thirty, but that at the option of the Industrial Commission they shall be payable "at any time" after five years from the date of their issue, the phrase "at any time" does not mean that the bonds may be called only at the expiration of five years or within a reasonable time thereafter, but it means any time after five years from the date of issue and before the date of their stated maturities. Catholic Order of Foresters v State, 67 ND 228, 271 NW 670, 190 ALR 979.

at arm's length. With care, to avoid being overreached or imposed upon.

atavia. The mother of a great-great-grandmother or great-great -grand father.

atavus. The father of a great-great-grandfather or great-great grandmother.

at bar. Before the bar, before the court.

See **plea at bar.**

at earliest convenience. As limiting a promise to pay: -when the promisor is able to pay or has the means of doing so. 34 Am J1st Lim Ac § 140.

a tegendo. From covering.

a tempore cujus contrarii memoria non existet. From a time when there is no memory to the contrary.

atha. In Saxon law, an oath.

athe. Same as **atha.**

atheist. A person who rejects all religious belief and denies the existence of God. Hale v Everett, 53 NH 9.

atheling. A member of the royal family; a nobleman.

at his earliest possible convenience. When the promisor is able to pay or otherwise perform his obligation. Anno: 28 ALR2d 792.

athletic club. As an organization exempt from federal income tax, a club not organized for profit or for the benefit of private shareholders. Internal Revenue Code § 501(c)(7). A club which maintains a gymnasium and outdoor courts wherein and whereon the members may engage in games and sports. Often a social club one of the activities of which is the sponsorship of athletic games. Sometimes a cover for a gambling house. 24 Am J1st Gaming § 29.

athletics. Sports, games, and exercises.

atia. Hate; malice.

atilio decenti. With proper tackle.

atilium. Tackle; a ship's rigging.

atinian law. See **lex atinia**.

at interest. Bearing interest either at the legal rate or at the rate provided by the contract.

at issue. The status of a case at bar, in reference to the pleadings, where the issues of fact are completely drawn, so that the case can come before the trier of fact, whether court or jury.

Atlantic Charter. The statement of principles, made jointly by President Franklin D. Roosevelt, representing the United States, and Prime Minister Winston Churchill, representing the United Kingdom, on August 14, 1941, in the desire to make known to the world the national policies of the two countries in a world then beset by aggression which, if successful, would have struck a disabling blow against the great democracies of the world. Am J2d Desk Book, Document 14.

at large. An animal wandering, roving, or rambling at will and unrestrained. 4 Am J2d Am § 42.

See **common at large; creditor at large; damages at large; in gross; running at large**.

at law. In law. Involving the law. Involving the rules of law rather than the rules of equity. By operation of law.

at law and in equity. A phrase inclusive of jurisdiction for the exercise of powers conferred by both law and equity and by statute as well. Wisconsin River Improv. Co. v Pier, 137 Wis 325, 118 NW 857. Exclusive in certain applications of jurisdiction in criminal, penal, ecclesiastical, admiralty, or military cases and proceedings. Gaines v Fuentes, 92 US 10, 23 L Ed 524 (statute relative to removal of causes to federal courts).

at least. A phrase which, as a designation of a period of time by days running after a stated date or event, may mean so many clear days. Boring v Boring, 155 Kan 99, 122 P2d 743.

Such meaning may be negated by statute. 52 Am J1st Time § 26.

at least once a week for four successive weeks. A requirement for publication of notice of judicial sale, meaning a publication so that not more than a seven-days' interval shall occur between any two successive publications. 30A Am J Rev ed Jud S § 55.

atmatertera. The sister of a great -great -great -grandmother.

at maturity. At the due date; at the time when payment or other performance falls due.

at my death. A phrase usually testamentary in character, but subject to construction in a proper context as not precluding the passing of a present interest. *Burks v Burks*, 222 Ark 97, 257 SW2d 369, 38 ALR2d 589; Anno: 11 ALR 51, 88.

atomic energy. All forms of energy released in the course of nuclear fission or nuclear transformation. 42 USC § 2014(c); 6 Am J2d Atomic E § 2.

Atomic Energy Act of 1954. A comprehensive federal statute covering the very modern subject of atomic energy. 42 USC §§ 2011 et seq.

Atomic Energy Commission. The governmental agency established by the Atomic Energy Act of 1954 to administer and carry out the provisions of the statute. 42 USC §§ 2031, 2032.

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atomize. To separate into atoms. See **atomic energy**.

at once. A phrase, variable with the context in which it appears, connoting immediacy, 13 Am J2d Car § 152; reasonable haste, 46 Am J1st Sales § 163; or within a time which is reasonable under the circumstances. 29A Am J Rev ed Ins § 1379.

atonement. The wiping out of bad conduct by subsequent sacrificial or otherwise good conduct. *Allen v Allen* 73 Conn 54, 46 A 242. The privilege under which, according to some authority, a defendant who has given cause for divorce, may by his subsequent conduct, deprive the other spouse of the right to a divorce for such cause. *Allen v Allen*, *supra*.

at or before. The equivalent of on or before a day specified. 52 Am J1st Time § 31.

at or upon. A designation or time in reference to a specific date, but to be construed according to the entire context. 52 Am J1st Time § 31.

at outside. A warranty in marine insurance in reference to storage of the insured watercraft; outside the shore. *Macatawa Transportation Co. v Fireman's Fund Ins. Co.* 168 Mich 365, 134 NW 193.

at owner's risk. Condition against liability in accepting paper for collection. 10 Am J2d Banks § 702.

at par. See **par**.

atramentum. Ink, for writing.

at random. At hazard. Without any settled aim, purpose, or direction; left to chance; casual, or haphazard. *Commonwealth v Bynum*, 20 Ky LR 1982, 50 SW 843.

atriamentum. A courtyard.

atrium. The open court in a Roman dwelling house.

atrocious assault. An assault aggravated by cruelty and brutality. 6 Am J2d Asslt & B § 48.

atropine. A drug derived from belladonna; used principally to dilate the pupil of the eye, thereby facilitating an eye examination.

ats. An abbreviation of **ad sectam**.

at sea. On the ocean; on the water. Slang for confused. A marine insurance term meaning absent on a voyage which was commenced within the time of the original risk, both going and returning, and although during part of the time the vessel may be necessarily in some port, in the prosecution of her voyage. Wood v New England Ins. Co., 14 Mass 31.

For the purpose of sea pay of a naval officer, a vessel is at sea where it is waterborne, even if at anchor in a bay, port, or harbor and not in condition presently to go to sea. 36 Am J1st Mil § 71.

at sight. On presentment; on being shown the instrument.

See **sight draft**.

atta. Same as **atha**.

attach. To seize property under a writ of attachment and take it into custody to await the rendition of judgment or termination of the action in which the writ issued. Buckeye Pipe Line Co. v Fee, 62 Ohio St 543, 57 NE 446. Broadly, to seize property for the purpose of bringing it into the custody of the court. Anno: 4 ALR 340.

See **attachment**.

attachable. Subject to attachment levy.

attache'. A member of the staff of a foreign ambassador or other diplomatic officer. 4 Am J2d Ambas § 9.

attached. Connected, for example, attached buildings; seized under a writ of attachment. Tefft v Providence Washington Ins. Co., 19 RI 185. Having become an incident of, as where dower has attached upon the marriage of a landowner, or where a homestead right in public lands has attached upon a proper filing in the land office of the government. Kansas Pacific Railway Co. v Dunmeyer, 113 US 629, 644, 28 L Ed 1122, 1127, 5 S Ct 566.

attachiamenta bonorum. An old form of attachment of chattels to recover a personal debt.

attachiamenta de spinis et boscis. The right of forest officers to appropriate thorns and brushwood to their own use.

attachiamentum. Same as attachment.

attachiamentum forestae. Same as attachment of the forest.

attachiare. To attach; to levy an attachment.

attachment. A provisional remedy for the collection of a debt, which is incidental to an action against the debtor, proceeding by a seizure, under legal process called a writ of attachment issued in the action, of property of the debtor for the purpose of having the property available in satisfaction under execution and sale upon a judgment obtained against the debtor in the action. 6 Am J2d Attach § 1. The actual attaching, that is, the seizure and disposition of the debtor's property under a writ of attachment.

See **foreign attachment; pluries writs; writ of attachment; wrongful attachment.**

attachment bond. A bond required of a plaintiff seeking an attachment, conditioned to pay the costs and damages which the defendant may sustain if the writ has been sued out wrongfully. 6 Am J2d Attach § 518.

attachment execution. Garnishment, or a proceeding akin thereto, in the enforcement of a judgment. *Patterson v Caldwell*, 124 Pa 455, 17 A 18. A proceeding for the enforcement of a judgment for the payment of money where levy and sale of property of the debtor are inadequate for the purpose of enforcement. 30 Am J2d Exec § 774.

attachment garnishment. See attachment execution.

attachment lien. The lien, or quasi lien, obtained by the levy of a writ of attachment. *Desiderio v D'Agostino*, 127 Fla 377, 173 So 682; *Hanly v. Davis*, 170 Mass 517, 49 NE 914.

The authorities differ as to whether an attachment creates a lien or a mere right to legal custody of the property seized. Whatever lien or right is obtained is obtained by virtue of statute. 6 Am J2d Attach § 454.

attachment of risk. The inception of liability under a contract of insurance to answer for any loss or damage that may result from a risk insured against during the term of the insurance in an amount not exceeding the amount stipulated in the contract.

This involves both time and subject matter; that is, the question when the risk attaches, as well as the question to what it attaches or under what circumstances

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it will attach. In order that a risk insured against shall attach and become an existing obligation under which the insurer may become liable, it is first necessary, of course, that there should be a completed contract of insurance. Conditions of the policy fixing an earlier or later date for the risk to attach or purporting to cover property not yet owned or in existence at the time the contract of insurance is completed, also enter into the broad question of when the insurer's risk under a policy of insurance attaches and has its inception. 29 Am J Rev ed Ins § 309.

attachment of the forest. The least important of the forest courts.

It had jurisdiction to inquire into offenses against vert and venison and over attachments of the persons of the offenders. See 3 Bl Comm 71.

attachments. See **attachment; court of attachments.**

attack. To fall upon with force; to assault, as with force of arms; to assault. *Phipps v State*, 34 Tex Crim 560, 565, 31 SW 397. To question validity or sufficiency, as to attack a statute on constitutional grounds or to attack a pleading for want or insufficiency of allegations.

See **collateral attack; direct attack.**

attain de disseisin. Convicted of disseisin.

attainder. The state into which the offender was placed by operation of law when sentence was pronounced against him for a capital offense, by the ancient common law.

The three principal incidents of attainder were forfeiture of property, corruption of blood, and civil death. 21 Am J2d Crim § 616.

See **bill of attainder; civil death; corruption of blood; forfeiture.**

attainder by confession. Pleading guilty before a court or abjuring the realm before a coroner.

attainder by process of outlawry. Adjudging a person who has fled to be an outlaw.

attainder by verdict. A finding of guilty by a jury.

attaint. Verb: To pass sentence of attainder. Adjective: Under sentence of attainder. Convicted of high treason or felony; stained and degraded by conviction of a capital offense; deprived of all civil rights and capacities. Noun: An ancient writ employed to reverse a verdict.

attainted. See **attaint.**

attaintes pur serfs. Convicted of being villeins.

atte. Same as **atha.**

attempt. Any overt act done with the intent to commit a crime and which, but for the interference of some cause preventing the carrying out of the intent, would have resulted in the commission of the crime.

It consists of two important elements: first, an intent to commit the crime; and second, a direct ineffectual act done towards its commission. 21 Am J2d Crim L § 110.

No definite line can be drawn between an "attempt" and "preparations" to commit a crime; the question is one of degree. United States v Coplon, (CA2 NY) 185 F2d 629, 28 ALR2d 1041.

attempt to commit arson. An intent to commit arson and a direct, ineffectual act done toward the completion of the offense.

An intent to commit the offense, plus preparations for commission, as by gathering combustible materials for kindling a fire, is not sufficient; there must be an act directed toward completion of the offense. State v Taylor, 47 Or 455, 84 P 82; 5 Am J2d Arson § 15.

attempt to commit burglary. An act performed with the intent to effectuate a burglary, carried beyond mere preparation but falling short of the actual commission of a burglary. 13 Am 32d Burgl § 29.

attempt to commit suicide. See **suicide.**

attempt to evade or defeat tax. A wilful attempt by any person in any manner to evade or defeat any internal revenue tax. IRC 1954 § 7201; 26 USC § 7201.

attempt to operate. Something less than the actual putting of the vehicle in motion. 7 Am J2d Auto § 256.

attendance. Physical presence plus freedom to perform the duties of an attendant. Fidelity-Phenix Fire Ins. Co. v Pilot Freight Carriers, Inc. (CA4 NC) 193 F2d 812, 31 ALR2d 839.

attendance by physician. Care and treatment by physician for a complaint, whether at the physician's office or in his own home. *White v Providence Sav. Life Assur. Soc.* 163 Mass 108, 108 NE 771.

Some authorities impose the qualification that the complaint for which treatment is given be of a serious nature or of more concern than a slight illness or temporary indisposition. *Brown v Metropolitan Life Ins. Co.* 65 Mich 306; 29 Am J Rev ed Ins § 758.

A physician attends a patient to treat, prescribe for, or act for him, to prevent, palliate or cure an ailment. If the person examined is not a patient there is no physician-patient relationship and therefore no physician-patient privilege. *San Francisco v Superior Court*, 37 Cal2d 227, 231 P2d 26, 25 ALR2d 1418.

See **medical attendance**.

attendance officer. A school officer, appointed by the school board, to ascertain the reason for absences of pupils, to visit the homes of the absentees, to take reasonable steps to require attendance, and in some jurisdictions, in a proper case, to take an absentee into custody for the purpose of taking him or her to school.

attendant. A person owing a duty of service to another or in some manner dependent upon him. A person in attendance.

See **attendance**.

attendant term. A lease or mortgage, the term of which has really expired, whose duration has been prolonged for the purpose of protecting the inheritance from incumbrance.

attended. See **attendance**.

attending circumstances upon execution of will. Family status, fiscal and mental condition of the testator, and the imminence of death, as well as the testator's declarations and instructions to the draftsman. Anno: 21 ALR2d 353-359.

attending physician. See **attendance by physician**.

attentare. To attempt.

attentat. Any improper act done by a judge in an action, pending an appeal from his decision.

attentate. Same as **attentat**.

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atterminare. To delay; to postpone.

atterminata,-posita ad talem terminum. Adjourned, -put over to such a term.

atterminent querentes. The plaintiffs may adjourn.

atterminer. To adjourn; to extend time for payment.

attermining. Extending the time for payment.

attest. Noun: A witness. Personal acts of authentication of genuineness. *First Nat. Bank v Laperle*, 117 Vt 144, 86 A2d 635, 30 ALR2d 958; 17 Am 12d Contr § 281. Verb: To bear witness to; to affirm to be true or genuine. *Lorch v Page*, 97 Conn 66, 115 A 681, 24 ALR 1204, 1207.

attestation. The act of witnessing the actual execution of a paper and signing one's name as a witness to that fact. 23 Am J2d Deeds § 28; 57 Am J1st Wills § 283. It incurs the manual act of subscription as well as the mental act of observation. 57 Am J1st Wills § 283.

Some authority draws a fine distinction between attestation and subscription, saying that attestation is the act of the senses, subscription is the act of the hand; that one is mental, the other mechanical. *Swift v Wiley*, 40 Ky (1 B Mon) 114, 117.

attestation clause. A writing at the end of a will but preceding the signature of the witnesses which sets forth with more or less completeness the performance of the statutory requisites to due execution and witnessing of the instrument, the purpose of the clause being to preserve a memorandum of the facts attending the execution of the instrument, so that in the event of the death, absence, or failure of memory on the part of the attesting witnesses, the due execution of the instrument may nevertheless be proved. *Re Johnson* (ND) 75 NW2d 313, 55 ALR2d 1049; 57 Am J1st Wills § 296. The clause in a deed, usually at the conclusion of it, sometimes called the *hiis testibus* (with these witnesses) clause, denoting that the persons signing are witnesses.

Usual forms of the clause in a deed are: "signed, sealed, and delivered in the presence of," "signed and sealed in the presence of us," "in witness whereof we hereto set our hands and seals," "sealed and delivered in the presence of," or even the word "teste." 23 Am J2d Deeds § 30.

attested. See **attest**; **attestation**.

attesting witness. A person who attests; one who witnesses the signing of a document by another person and signs his own name as a witness to that fact. *Jenkins v Dawes*, 155 Mass 599, 600. A credible or competent person who observes the execution of a will by the testator and signs his name as a witness to that fact, normally following an attestation clause. 57 Am J1st Wills § 308.

attestor of a cautioner. (Scotch.) A guarantor of a debt.

attheynte. Same as **attaint**.

at the base. At the ground, when referring to a measurement of standing timber. 34 Am J1st Logs § 23.

at the courthouse door. A familiar phrase in posted and published notices of judicial sales, indicating the place where the sale is to be held and conducted. 30A Am J1st Jud S § 76.

at the date. A designation of time in reference to a specific day; subject to construction in some contexts as indicating a period of time up to the day designated. 52 Am J1st Time § 31.

at the death. Words of futurity which ordinarily have reference to the time when the devisee shall come into a right of possession, but do not prevent the vesting of title immediately upon the death of the testator. 28 Am J2d Est § 255.

at the earliest practicable moment. As soon as practicable; or as soon as possible; within a reasonable time under all the circumstances. *Anne*: 23 ALR2d 1083.

at the end of the will. A phrase used in stating the rule as to the place where a will must be signed, which is deceptive in the appearance of simplicity.

Is it the physical end, that is, the point most removed in space from the beginning of the instrument, or the logical end, that is, the point where the draftsman stopped writing in the consecutive order of composition? Either position has support in the authorities. 57 Am J1st Wills § 268. at the ground. See at the base; at the stump.

at the king's pleasure. As applied to a punishment, in the king's courts and by his judges.

at the market. A direction to a stockbroker which means to buy or sell immediately, irrespective of price and prospects. 12 Am J2d Brok § 125.

at the next term. A condition of a bail bond, meaning at the first term to follow the execution of the bond.

As to whether the sureties are bound for the appearance of the prisoner at a term subsequent to the first term, see 8 Am J2d Bail § 101.

at the stump. An expression peculiar to the timber business, indicating that the measurement of a tree's circumference is to be taken at the point above ground where such timber is usually cut according to the custom of the locality. 34 Am J1st Logs § 23.

at the time. As of a certain time; also, forthwith, immediately, or during. 52 Am J1st Time § 31.

attic. The loft of a dwelling house; the space next to the roof.

attilamentum. Same as **attile**.

attile. Tackle; the rigging of a ship.

attilium. Same as **attile**.

at time of passage. See **passage of statute**.

attincta. An attain.

attinctus. Attainted.

attingere. To touch; to amount to.

attorn. To attorn is to make an attornment; to shift homage and fealty to a new lord; to accept and acknowledge a new landlord; to appoint an attorney or substitute.

attornamentum. Same as attornment.

attornare. To attorn.

attornare rem. To turn over a thing.

attornati et apprenticii. Attorneys and law students.

attornato recipiendo. See **de attornato recipiendo.**

attornatus. A person who attorned or who is substituted for another; an attorney.

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attornatus vel procurator. An attorney or proctor.

attorne. An attorney.

attorney. An attorney at law or an attorney in fact.

The word, unless clearly indicated otherwise, is construed as meaning attorney at law. Re Morse, 98 Vt 85, 126 A 550, 36 ALR 527, 530.

attorney at law. One of a class of persons who are by license constituted officers of courts of justice, and who are empowered to appear and prosecute and defend, and on whom peculiar duties, responsibilities, and liabilities are devolved in consequence. 7 Am J2d Attys § 1. A quasi-judicial officer. 7 Am J2d Attys § 3.

Of course, the work of an attorney is not confined to appearances in court for prosecutions and defenses. A person acting professionally in legal formalities, negotiations, or proceedings, by the warranty or authority of his clients is an attorney at law within the usual meaning of the term. The distinction between attorneys or solicitors and counsel or barristers is practically abolished in nearly all the states. 7 Am J2d Attys § 1. While some men of the profession devote their time and talents to the trial of cases and others appear in court only rarely, the law imposes the same requirements for admission and the same standards of ethics for both classes.

See **barrister; of counsel; solicitor.**

attorney general. Chief law officer of the nation or a state, to whom is usually entrusted not only the duty of prosecuting all suits or proceedings wherein the government, national or state as it may be, is concerned, but also the task of advising the chief executive and other administrative heads of the government in all legal matters on which they may desire his opinion. 7 Am J2d Atty Gen § 1.

Attorney General of the United States. The head of the Department of Justice; a member of the President's Cabinet.

See **attorney general.**

attorney general's opinion. See **opinion of the attorney general.**

attorney in fact. An agent or representative authorized by a power of attorney to act for his principal in certain matters. 3 Am J2d Agency § 23. An agent, sometimes referred to as a private attorney who is authorized by his principal, either for some particular purpose, or to do a particular act, not of a legal character.

Such an agent is often designated by the word attorney" after his name. Hall v Sawyer, 47 Barb (NY) 116, 119.

attorney of record. The attorney for a party to an action who has appeared for him by a formal appearance, by pleading or making a motion for him, or by an oral statement of appearance in open court, and is in charge of the party's business and interests in the action.

It is a common practice to refer to associate attorneys as "of counsel," to distinguish them from attorneys of record in a cause.

attorney of the wards and liveries. The third officer of the duchy court.

attorney's certificate. An English revenue receipt showing the payment of the annual duty exacted of any attorney at law.

attorney's charging lien. See **charging lien**.

attorney's fee. An allowance made by the court as costs in addition to the ordinary statutory costs. 20 Am J2d Costs § 72. Compensation to which an attorney at law is entitled for his services and, unless restricted by a contingent fee contract, payable to the attorney without reference to benefits accruing to his client. 7 Am J2d Attys § 203.

In some instances, the amount of an attorney's fee is fixed by contract, as in the case of an attorney's fee provision in a promissory note, and in other cases, by the court, as where the client is a fiduciary and must seek credit in his account for fees paid attorneys.

See **contingent fee; costs of collection**.

attorney's general lien. See **retaining lien**.

attorney's implied authority. The authority which an attorney has, by virtue of his employment as an attorney, to do all acts necessary and proper to the regular and orderly conduct of the case; being such acts as affect the remedy only and not the cause of action. Such acts of the attorney are binding on his client, though done without consulting him. 7 Am J2d Attys § 120.

An attorney employed to conduct a transaction not involving an appearance in court also has a measure of implied authority, although not in the broad scope accorded that of a counsel in litigation. For example an attorney employed to collect a claim has no implied authority to accept anything except lawful money in payment. Anno: 66 ALR 116, S. 30 ALR2d 949, § 5.

attorney's license. The leave or license of the court which the court grants to an attorney by its judgment of admission to the bar, and without which a person cannot practice as an attorney, even in the absence of any statute on the subject of admission to practice.

Such a license may be revoked by the court whenever misconduct renders the attorney holding it unfit to be intrusted with the powers and duties of his office. 7 Am J2d Attys § 12.

attorney's lien. General or retaining lien upon money or property of his client in his possession as security for the general balance due the attorney from the client for professional services rendered the client. 7 Am J2d Attys §§ 272 et seq. A special or charging lien upon a judgment, decree, or award obtained for his client as security for payment of the compensation due him for his services in obtaining such judgment, decree or award. 7 Am J2d Attys § 281.

See **charging lien; retaining lien**.

attorney's oath. An oath usually required by statute as a condition precedent to an attorney's admission to practice, and sometimes to his continuance in practice.

attorney special. An attorney appointed for certain cases or a certain case; an attorney attached to some particular court.

attorney's possessory lien. See **retaining lien**.

attorney's privilege or immunity. The immunity or privilege of an attorney at law against being subjected to arrest or the service of process in a civil action while going to the place of trial of an action in which he appears in his professional capacity, during the trial, and while returning to his office or residence. 42 Am J1st Proc § 140.

attorney's retainer. See **retainer**.

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attorney's retaining lien. See **retaining lien**.

attorney's special lien. See **charging lien**.

attornment. The act or agreement of a tenant accepting one person in place of another as his landlord. 32 Am J1st L & T § 99.

In feudal times, the word meant the shifting of homage and fealty to a new lord.

attorn servitium tenentis. To attorn the service of a tenant.

attractive agency. See **attractive nuisance**; **attractive nuisance doctrine**.

attractive nuisance. An unusual condition, instrumentality, machine, or other agency on premises which is dangerous to children of tender years but so interesting and luring to them as to attract them to the premises. *Hayko v Colorado & Utah Coal Co.*, 77 Colo 143, 235 P 373, 39 ALR 482; 38 Am J1st NegI § 142.

See **attractive nuisance doctrine**.

attractive nuisance doctrine. The principle followed in many jurisdictions, but with some diversity of opinion as to the requisite conditions for its application, that one who maintains or permits upon his premises a condition, instrumentality, machine, or other agency which is dangerous to children of tender years by reason of their inability to appreciate the peril therein, and which may reasonably be expected to attract children of tender years to the premises, is under duty to exercise reasonable care to protect them against the dangers of the attraction.

The doctrine, within limitations, is for the benefit of the meddling, as well as of a trespassing child. *Brittain v. Cubbon*, 190 Kan 641, 378 P2d 141; *Teagarden v. Russell*, 306 Ky 528, 207 SW2d 18; *Nichols v Consolidated Dairies*, 125 Mont 460, 239 P2d 740, 28 ALR2d 1216; 38 Am J1st Negl § 141.

The principle is otherwise known as the turntable doctrine.

attrition. (Eccles.) Regret or penitence for the consequences of wickedness. Cf. **contrition**.

atturn. Same as **attorn**.

attorne. An attorney.

attorney. The ancient English word from which the word "attorney" has derived, signifying a person that stands in the turn, place, or stead of another. *Coke's First Institute*, 51b.

at wharf. Delivery by the seller to the buyer on the wharf, free from charges to the buyer for unloading, etc. 46 Am J1st Sales § 189.

at will. See **estate at will**.

atya. Same as **atia**.

au. At; in; to; until.

an aumone. For alms.

aubaine. A stranger; an unnaturalized alien.

au besoin. In case of need, -a designation in a bill of exchange of a person of whom payment may be required upon the refusal of the drawee to pay.

au bout de compte. At the end of the account; finally.

A. U. C. Anno urbis conditae; in the year (753 B. C.) of the founding of the city (Rome), the beginning of the Roman calendar.

au ceo temps. At this time.

auceps syllabarum. A snatcher of syllables; a caviler; a hairsplitter.

au ce temps. At that time.

auctio. An auction.

auction. A public sale of property to the highest bidder. 7 Am J2d Auct § 1.

See **by-bidder; by-bidding; chilling bids; Dutch auction; knocked down; puffer; puffing; stifling bids; struck off; sub hastio; white-bonnet.**

auctionarii, quos Angli brokers decimus. Vendors, whom we Englishmen call brokers.

auctionarius. A vendor; an auctioneer; a dealer in second-hand goods; a retailer.

auction business. The business of conducting auction sales; something more than the sale at auction by an individual or merchant of his own goods. 7 Am J2d Auct § 4.

auction by inch of candle. An auction at which the successful bidder is he who bids highest up to the time of the falling of the wick of a short candle lighted when the bidding began.

auctioneer. A person who conducts an auction sale for another on commission or for recompense, and who is deemed primarily the agent of the seller of the property, though for some purposes he is also deemed to be the agent of the purchaser.

Upon the fall of the hammer he becomes the agent of the buyer as well as the seller, and from that time to the consummation of the sale he is the agent of both for the purpose of drawing up and signing the memorandum of the transaction which takes the case out of the operation of the statute of frauds. 7 Am J2d Auct § 10.

auctioneer's lien. The lien of an auctioneer, for his charges and commissions, upon the property entrusted to him and the sums coming into his hands. 7 Am J2d Auct § 61.

auction pool. A system of placing wagers on horse races which for a time was successfully operated as an evasion of gaming laws. James v State, 63 Md 242, 248.

auction sale. See **auction.**

auction without reserve. See **without reserve.**

auctor. A plaintiff; an agent's principal; an auctioneer.

auctoritas. Authority.

Auctoritates philosophorum, medicorum, et poetarum, sunt in causis allegandae et tenendae. The opinions of philosophers, physicians and poets are to be alleged and received in causes.

auctour. Same as **auctor.**

aucune foits. Sometimes.

aucunement. Somewhat.

Aucupia verborum sunt iudice indigna. Caviling is unworthy of a judge's dignity.

audencia. A high court of justice in the Spanish empire, which sometimes was presided over by the administrator in chief of the law and police. *Strother v Lucas*, 12 Pet (US) 410, 442.

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an dernier. At last.

Audi alteram partem. Hear the other side. A principle of the common law. *Smith v Moore*, 142 NC 277, 55 SE 275.

audience. A hearing; a body of people assembled to hear.

audience court. An ecclesiastical court with jurisdiction inferior to that of the court of arches, and in which the archbishop probably exercised a considerable part of his jurisdiction.

audiendo et terminando. To hear and determine.

audit. Noun: A formal or official examination and verification of accounts, vouchers and other records; an account as adjusted by auditors. *Aron v Gillman*, 309 NY 157, 128 NE2d 284, 51 ALR2d 598. The word is sometimes used in the sense of a verification of figures and computations by a mere accountant, but ordinarily it implies an exercise of discretion. *Etzold v Board of Comrs.* 82 Ind App 655, 146 NE 842.

Verb: To adjust; to allow or reject; to ascertain; to determine; to decide; to pass upon; to settle; to hear, examine, and determine a claim by its allowance or rejection in whole or in part.

The word applies only to claims ex contractu. *Shields v Durham*, 118 NC 450, 24 SE 794.

audita querela. A remedy granted in favor of one against whom execution has issued or is about to issue on a judgment the enforcement of which would be contrary to justice, either because of matters arising subsequent to its rendition, or because of

prior existing defenses that were not available to the judgment debtor in the original action because of the judgment creditor's fraudulent conduct or circumstances over which the judgment debtor had no control. 7 Am J2d Aud Q § 1.

audito. See **ex audito.**

auditor. An officer of the government, whose duty it is to examine the acts of officers who have received and disbursed public moneys by lawful authority. *Fajardo SugarCo, v Holcomb* (CAI Puerto Rico), 16 F2d 92. An officer of the court who examines accounts for the court, preparing a report from which the court obtains the information necessary to the rendition of a decree. *Re Walter Peterson*, 253 US 300, 64 L Ed 919, 40 S Ct 543. An officer of court to whom references are made.

auditorium. A commodious room for audiences at lectures, theatrical performances, and political meetings or conventions; the building which contains such a room.

auditors of the imprest. Officers who formerly audited certain accounts of the exchequer.

auditory. A judge's seat in a court.

auditu. See **in auditu.**

auditum. That which is heard; hearsay.

auditus. A hearing.

au fond. At the fount; substantially; essentially.

au fond en droit. Essentially in point of law.

au fond en fait. Essentially in point of fact.

augmentation. The act of increasing or making larger by addition, expansion, or dilation; the act of adding to or enlarging; the augmentation of territory is the act of adding other territory to it. *Vejar v Mound City L & W. Asso*, 97 Cal 659, 32 P 713.

augmentation court. A court set up by Henry VIII to increase the royal revenue by putting down monasteries.

Augusta legibus soluta non est. The queen is not exempt from the law. See 1 Bl Comm 219.

aujourd'huy. To-day.

aula. A hall; a court; a court-baron.

aula ecclesiae. The nave or body of a church.

aula regia. William the Conqueror established a constant court in his own hall (aula), thence called by Bracton and other ancient authors "aula regia" or "aula regis" (the king's bench). This court was composed of the king's great officers of state resident in the palace, and usually attendant on his person. See 3 Bl Comm 37.

aula regis. Same as **aula regia.**

aulnage. Same as **alnage.**

aumone. Alms.

auncel weight. Weighing with a balance or steelyard.

aunt. The sister crone's parent; a relative in the third degree according to the civil law method a computing degrees of kinship which prevails in most American jurisdictions. Anno: 55 ALR2d 645, § 1 [b]; 23 Am J2d Desc & D § 48.

au plus. At most.

aupres. Near; high; about.

au quel. To which; to whom.

aura. A medical term for the sensation, as of a wave of cold air hitting the head, prior to an epileptic seizure.

aures. (Saxon.) The cutting off of a thief's ears as a punishment for larceny.

auricularum scissio. The cropping or the ears.

aurum reginae. Queen gold, a royal revenue belonging to the queen consort during her marriage with the king. See 1 Bl Comm 220.

aussi. Also.

austercus. See **ostercus.**

Australian ballot. See **Australian ballot system.**

Australian ballot system. The term applied to the ballot used and the method and regulation of voting in American elections.

The system is not exactly the same as that used in Australia. It also varies between the states, but the statutes which impose the system of voting in the different states have enough in common with each other and with the Australian plan to warrant the use of the terms "Australian ballot" and Australian ballot system. The cardinal features of the statutes are: (1) an arrangement for polling by which compulsory secrecy of voting is secured, and (2) an official ballot containing the names of all candidates, printed and distributed under state or municipal authority. Allen v Glynn, 17 Colo 338, 29 P 670; State ex rel Gipe v Nelson, 358 Mo 164, 213 SW2d 905; 26 Am J2d Elect § 204.

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austringer. A falconer who kept goshawks.

austurcus. A goshawk used by falconers in hunting fowl; the modern chicken hawk.

aut. Either; or.

autarchy. Same as autocracy.

au temps. At the time.

aut eo circiter. Or thereabouts.

auter. See **autre.**

auterfoits. Same as **autrefois.**

auterment. Otherwise.

authentic. Properly attested; executed according to law; genuine.

authenticate. To render authentic; to give authority to by proof, attestation, or formalities required by law; to prove authenticity.

See **acknowledge; attest.**

authentication. Such official attestation of a written instrument as will render it legally admissible in evidence. *Mayfield v Sears*, 133 Ind 86, 88, 32 NE 816. The act or mode of giving legal authority to a statute, record or other written instrument, or a certified copy thereof, so as to render it legally admissible in evidence.

See **authenticate; certificate of authentication.**

authenticus. A collection of the novels, or new laws, of Justinian.

authenticum. (Civil law.) An original document, as distinguished from a copy.

author. One to whom anything owes its origin; an originator; a maker; one who completes a work of science or literature. 18 Am J2d Copyr § 37.

One may be an author without producing any original matter, provided he does something beyond a mere copying, such as compiling or editing. 18 Am J2d Copyr § 37.

See **authorship.**

authority. Judicial or legislative precedent; power; warrant; a duly constituted administrative agency, such as a port authority.

See **civil authority; color of authority; public authority; scope of authority.**

authority by estoppel. Essentially, authority under doctrine of apparent authority. 3 Am 32d Agency § 76.

See **agency by estoppel.**

authority of agent. The power of the agent to affect the legal relations of the principal by acts done in accord with the principal's manifestations of consent to him. See **agent's actual authority; agent's apparent authority; agent's express authority; agent's implied authority; agent's incidental authority.**

authority of law. See **warrant of law.**

authority of officer. The authority which inheres by force of statute or under the common law in an office, whether public or private.

authorize. To empower; to give a right to act, the connotation being permissive rather than mandatory.

While it is true that in many statutes the word may imply a command if it does so it is because other words have been used to express that intention. A mandatory construction has prevailed only in cases where the statute under consideration, when taken as a whole and viewed in the light of surrounding circumstances indicated a legislative purpose of enacting a law mandatory in its character. 121 Kan 109, 245 P 1019; 50 Am J1st Stat § 28.

The phrase as used in the Bankruptcy Act making it a condition of confirmation of a plan of composition of the indebtedness of a governmental unit on the petition of such unit that it must appear that the petitioner is "authorized by law to take all action necessary to be taken by it to carry out the plan" manifestly refers to state law. United States v Behins, 304 US 27, 82 L Ed 1137, 58 S Ct 811.

authorized. A word of permission. 17 Am J2d Contr § 281.

See **authorize**.

authorized by appointment to receive service of process. An actual appointment or an agent for the purpose of receiving service. Anno: 11 L Ed 2d 1038.

authorized by law. See authorized.

authorized capital stock. The maximum amount of stock which a corporation is authorized to issue under its charter or articles of incorporation. McLaren v Weld, 168 Minn 234, 237, 210 NW 29, 30; 18 Am J2d Corp § 208.

Authorized Version. Same as **King James Bible**.

authorship. A putting into production of something meritorious from the author's own mind, something which embodies thought of the author, perhaps the thought of others, and that would not have found existence in the form presented except for the distinctive individuality of mind from which it sprang. 18 Am J2d Copyr § 37.

au tel forme. In such manner.

autocracy. Self-government; self-rule; a government whose monarch's power is unlimited.

auto da fe. Same as **auto de fe**.

auto de fe. The publication of sentences of persons tried by the courts of the Spanish Inquisition; the execution of the sentence.

autograph. A document written wholly in one's own handwriting; a person's signature.

auto livery. Taxicab service.

automatic continuance. An adjournment of a case by operation of law, as where it is not disposed of at the end of the term and necessarily must go over to the next term. 17 Am J2d Contin § 1.

automatic elevator. An elevator, particularly one for the carriage of passengers, which does not require an attendant in operation, responding to the push of its button. Anno: 6 ALR2d 391.

automatic insurance. Protection under a clause in standard automobile liability policies which extends the coverage to the operation by the insured of cars acquired during the life of the policy by replacement and purchase. 7 Am J2d Auto Ins § 100. Insurance provided by nonforfeiture clauses in life insurance policies. 29 Am J Rev ed Ins § 633.

Insurance which can be extended by a mere notice from the insured and without any new contract can be fairly called automatic insurance, though perhaps renewable insurance would be a better term. *Continental Casualty Co. v Trenner* (DC Pa) 35 F Supp 643.

automatic revocation of trust. The death of the beneficiary of a tentative trust of a savings deposit prior to the death of the depositor. Anno: 38 ALR2d 1246.

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automatism. Action uncontrolled by thought.

automobile. A vehicle propelled by a motor, capable of standing erect when stationary, designed for carrying persons or property, and which does not run upon fixed rails or tracks. 7 Am J2d Auto § 1. The "car" to millions of Americans. Ordinarily, although not absolutely, to be distinguished from carriage, cart, or wagon. 7 Am J2d Auto § 3. In the ordinary sense of the term, something different from a farm tractor. 7 Am J2d Auto Ins § 43. An "effect" within the constitutional protection of the right of the people to be secure in their effects against unreasonable search and seizure. *Dalton v State*, 230 Ind 626, 105 NE2d 509, 31 ALR2d 107 1.

In the ordinary sense of the term, as the word is to be understood where it appears in an automobile liability policy, automobile is equivalent to motor vehicle and is inclusive of trucks and tractors. 7 Am J2d Auto Ins § 99.

Although the generic word "automobile" is broad enough to include all forms of self-propelling vehicles, the word is to be defined in a particular case from its association in the context and by considering the purpose of the instrument in which it is used. Modern usage assigns to the word "automobile" the restricted meaning of a motor-driven vehicle suitable and intended for conveyance of persons. *Washington Nat. Ins. Co. v Burke* (Ky) 258 SW2d 709, 38 ALR2d 861.

As to what is an "automobile" or a "car" within coverage of accident policy, see Anno: 38 ALR2d 867.

automobile accessories. Articles and instrumentalities placed in the mechanism or structure of an automobile for use in the operation of the vehicle either as a matter of necessity or for convenience: pleasure, and comfort, in operation.

automobile accident. See **accident**.

automobile association. An association or club which provides towing or emergency road service, map and touring service, bail-bond service, etc., and often engages in activities for the promotion of driver training and the enactment of statutes and ordinances in the interest of safety in driving. Anno: 89 ALR 930.

automobile club. See **automobile association**.

automobile collision insurance. See **collision insurance**.

automobile comprehensive insurance. A policy of insurance which, in addition to coverage of loss by fire, theft, collision, and upset, protects against loss from practically every other occurrence, manifestation of nature, and event causing injury to an

automobile, such as windstorm, hail, lightning, malicious mischief, vandalism, pilferage, civil riot or commotion, etc. 7 Am J2d Auto Ins § 74.

Automobile Dealers' Day in Court Act. Another term for Federal Automobile Dealers Franchise Act which is intended to establish a balance of power as between manufacturers and dealers in the automobile industry by curtailing the economic advantages of the larger manufacturers and increasing those of the dealers. 7 Am J2d Auto § 348.

automobile fire insurance. Protection against fire given by the ordinary automobile insurance policy.

See **automobile insurance**.

automobile guest. One who is invited, either directly or by implication, to enjoy the hospitality of the owner or operator of an automobile, and who accepts such hospitality and takes a ride either for his own pleasure or on his own business, without making any return to or conferring any benefit upon the owner or operator of the motor vehicle other than the mere pleasure of his company. 8 Am J2d Auto § 475.

automobile indemnity insurance. A policy of insurance for the protection of an owner or operator of a motor vehicle having the same purpose in general as an automobile liability policy but distinct from the latter in the respect that the liability of the insurer under the policy does not attach until the insured has sustained an actual loss in the discharge of a liability incurred by him in the operation of the vehicle causing injury to the person or property of another. 7 Am 12d Auto Ins § 81.

automobile insurance. A generic term inclusive of the several kinds of contracts and policies which affords protection against risks involving the ownership and operation of automobiles, such as collision, fire, flood, theft, transportation, and, perhaps most important of all, insurance against liability for death, personal injury, or damage to property, occurring from the operation of a motor vehicle. 7 Am J2d Auto Ins § 1.

automobile liability insurance. A policy of insurance under which the insurer agrees to pay, on behalf of the insured and within specified limits, all sums which the insured shall become legally obligated to pay as damages because of personal injury to or the death of any person, or because of injury to or the destruction of property, caused by accident and arising out of the ownership, maintenance, and use of the vehicle or vehicles insured. 7 Am J2d Auto Ins § 80.

automobile lights. See **clearance lights; headlights; side lights; taillight**.

automobile theft insurance. Insurance against loss from the theft of a motor vehicle or articles carried therein, provided by a separate policy or, as is usually the case at the present time, in a comprehensive policy. 7 Am J2d Auto Ins § 46.

As to whether automobile theft insurance covers a loss where the taking of the car amounts to larceny by trick or the offense of obtaining property by false pretenses, see Anno: 48 ALR2d 20.

autonomy. Independence; self-government; the negation of a state of political influence from without or from foreign powers. *Green v Obergefell*, 73 App DC 298, 121 F2d 46, 138 ALR 258. A self-governed community.

autopsy. A method of discovery. 23 Am J2d Dep §§ 209, 322, 323. Opening, examination, and dissection of a dead body to determine cause of death. 22 Am J2d Dead B § 32.

autoptic preference. Real or demonstrative evidence. 29 Am J2d Evid § 769.

auto stage. A motor vehicle used for the purpose of carrying passengers, baggage, or freight on a regular schedule of time and rates. *State v Ferry Line Auto Bus Co.* 99 Wash 64, 168 P 893.

auto transportation company. Every corporation or person operating or managing any motor-propelled vehicle, not usually operated on or over rails, in the business of transporting persons and property over a public highway for compensation. *Strickler v Schaaf*, 199 Wash 372, 91 P 1007, 123 ALR 226.

autre. Other; another.

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autre action pendant. Another action pending.

autre droit. The right of another.

autrefois. Formerly; hertofore; previously.

autrefois acquit. Formerly acquitted; a plea of one accused of crime setting up his previous acquittal of the same offense as a bar to further prosecution. *Potter v State*, 91 Fla 938, 109 So 91, 92.

See **prior jeopardy**.

autrefois attain. An older doctrine that a person already convicted and serving a term of imprisonment for the offense is not to be held for another offense while in confinement. 21 Am J2d Crim L § 140.

autrefois convict. Previously convicted; a plea setting up a prior conviction for the same offense as a defense.

See **prior jeopardy**.

autre soile. See **en autre soile**.

autres sages come leur semblera. Such other skilled men as to them shall seem fit.

autre vie. The life of another.

autri. Other; another.

autry. Same as **autri**.

auxiliary. Collateral; incidental; conducive; assisting.

See **ancillary**.

auxiliary administration. See **ancillary administration**.

auxiliary chaplain. A parish priest's assistant.

auxiliary jurisdiction. See **ancillary jurisdiction**.

auxiliary proceeding. See **ancillary proceeding**.

auxiliary to or supplemental of. An expression in the Federal Motor Carrier Act which is determinative of the relation of motor carrier service to train service in reference to the legality of acquisition of the motor carrier by the rail carrier. 13 Am J2d Car § 89.

auxilium. Aid.

auxilium curiae. An order of court citing a person, at the suit of another to appear and warrant something.

auxilium petere. To seek aid.

auxilium regis. A subsidy paid to the king.

auxilium vice comiti. An ancient duty paid to sheriffs.

auxionarii et auxionatrices panis, cervisiae, et aliarum rerum. Male and female vendors of bread, beer and other things.

auxionarius. Same as **auctionarius**.

auxy icy. So here.

auxy pleinment. As fully.

auxy sovent que. As often as.

A. V. Abbreviation of Authorized Version, which is the King James Bible.

availability for work. Readiness and willingness to accept suitable work at a point where there is an available labor market, which work one does not have good cause to refuse. A willingness to accept any suitable work which may be offered without attaching thereto conditions not usual and customary in the occupation but which the individual may desire because of his particular needs or circumstances. Unemployment Compensation Com. v Tomko, 192 Va 463, 65 SE2d 524, 25 ALR2d 107 1; Anno: 25 ALR2d 1077.

available market. A place where goods can be bought or sold; from the standpoint of a buyer of goods which the seller wrongfully refuses to deliver, a place where the buyer can purchase similar goods. Buyer v Mercury Technical Cloth & Felt Corp. 301 NY 74, 92 NE2d 896, 20 ALR2d 8 15.

available means. A mercantile term for anything which is readily convertible to money, such as negotiable promissory notes and bills of exchange, stocks and bonds. Brigham v Tillinghast, 13 NY 215, 218, 219.

avail of marriage. The value of the marriage; that is, the amount which the suitor would give.

avails. The proceeds of the sale of property. McNaughton v McNaughton, 34 NY 201, 205. The proceeds of an insurance policy. Le Blanc's Succession, 142 La 27, 76 So 223.

aval. A guaranty of a negotiable instrument.

avalanche. A slide of snow from the top or side of a mountain, often destructive of life and property; an Act of God. Anno: 34 ALR2d 834, § 3.

avant. See **en avant**.

avantagium. Advantage; profit.

avanture. An adventure; chance; misadventure; an accident causing death.

avaria. Average; loss to a ship or cargo at sea.

aveigner. Same as **advenir**.

avenage. A feudal tenant's payment of rent in oats.

avener. Same as **advenir**.

aventure. Same as **adventure**.

avenue. A thoroughfare in a city or populated area; usually a wide street, sometimes with trees.

aver. To allege; to plead; to assert; to state.

aver. Verb: To have. Noun: Property; substance.

average. The mean between extremes or between two or more quantities, measurements, distances, weights, etc. Feudal service performed by tenants consisting of hauling and carrying with wagons and work animals. Sometimes used as the equivalent of general average.

See **free from average unless general; free from particular average; general average; particular average; petty average**.

average agreement. A rule or regulation for calculating demurrage, whereby the shipper or consignee is allowed a credit for cars released prior to the expiration of the free time. 13 Am J2d Car § 488.

average bond. See **general average bond**.

average clause. A clause in a blanket fire insurance policy providing that in case of loss the policy shall attach on each building in such proportion as the value of each building bears to the aggregate value of the entire property insured.

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Such provision is in no sense a coinsurance clause. 29A Am J Rev ed Ins 1540 .

See **free from average unless general; free from particular average**.

average earnings. Average over recent years; a measurement of value of lost time. 22 Am J2d Damg § 91.

In applying workmen's compensation statutes, the words "average weekly earnings" are to be taken in their common and ordinary sense. 58 Am J1st Workm Comp § 309.

average profits. Net profits over a reasonable period of time dating back from time of injury to business. 22 Am J2d Damg § 329.

average-taker. An expert employed to adjust general average in a marine loss.
See **general average**.

average unless general. See **free from average unless general**.

average value. See **fair average value**.

average weekly earnings. See **average earnings**.

a verbis legis non est recedendum. From the words of the law there should be no departure.

avercorn. Rent in corn.

aver de pois. True weight; full weight.
See **avoirdupois weight**.

aver et tenir. To have and to hold.

averia. Plural of **averium**.

averia carucae. Beasts of the plough.

averia elongata. Cattle which have been taken away.

averiiis captis in withernam. A writ by which a person whose cattle had been taken away could have cattle of the taker.

averiiis retornandis. See **de averiiis retornandis**.

averium. A work animal. See **heriot**.

averium ponderis. True weight; full weight.

averland. Land which was subject to the feudal service of average.

averment. An allegation.

averment on information and belief. An allegation in a pleading which states that the pleader is informed and believes the facts stated to be true, instead of making a direct statement of such facts. 41 Am J1st Plead § 40.

a vero domino. From the true owner. Rhodes v Whitehead, 27 Tex 304.

averpenny. A feudal tenant's payment of money in lieu of average.

averrare. A feudal service of carrying goods in a wagon or on horses.

aver silver. A feudal tenant's payment of money in lieu of average.

aversio. Air averting or turning away; a sale or lease of property as a whole.

aversio periculi. The averting of peril or danger.

averum. Property.

avet. To abet; to aid or assist.

avia. A grandmother.

aviation. The art of flying; the management of aircraft, particularly aircraft heavier than air. *Masonic Acci. Ins. Co. v Jackson*, 200 Ind 472, 164 NE 628, 61 ALR 840. The science and the business of flight as practiced by man.

See **aeronautics; aircraft; airport; engaged in aviation.**

Aviation Act. The federal statute which provides in detail for a federal aviation program, continues the Civil Aeronautics Board as an agency of the United States, and also establishes a Federal Aviation Agency which is headed by an Administrator. 8 Am 32d Avi § 10.

Aviation Administrator. The head of the Federal Aviation Agency. 8 Am J2d Avi § 10.

Aviation Agency. An agency of the United States created by statute for the regulation of aviation, including such matters as the certification, identification, and marking of aircraft; airplane and aircraft air worthiness; the maintenance, repair, and alteration of aircraft; the transportation of dangerous articles, air-traffic rules, etc. 8 Am 12d Avi § 12.

aviation liability insurance. An insurance contract which insures the owner of an aircraft against loss sustained on account of having to pay damages for injuries to persons or property inflicted by or in the operation of such aircraft. 29A Am J Rev ed Ins § 1348.

a villa. From a village.

a vinculo matrimonii. From the bonds of matrimony.

avis. Advice; counsel.

avisamentum. Same as avis.

avizandum. A Scotch practice of submitting a matter privately to a judge. avo. See de avo.

avocat. (French.) An advocate; a lawyer.

avocation. That which is outside a person's regular calling; a minor occupation. Anno: 11 ALR 503.

avocatory. See **letters avocatory.**

avoid. To annul; to make void; to declare void that which is voidable; to keep away from.

avoidable. See **voidable.**

avoidable consequences doctrine. Precluding recovery of damages flowing from consequences reasonably avoidable by plaintiff. 22 Am J2d Damg § 30.

avoidance. Nullifying; rendering void.

See **confession and avoidance; plea in confession and avoidance.**

avoidance of taxes. Permissible acts and conduct, as distinguished from the reprehensible "evasion" of taxes.

avoirdupois weight. A measure characterized by a sixteen-ounce pound, as distinguished from troy weight of twelve ounces to the pound.

avoucher. To call a warrantor of land to come in and defend the title for the warrantee.

avoue. (French.) Attorney; solicitor in Canada.

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avow. To declare solemnly; to make avowry.

See **avowry.**

avowal. A direct statement or declaration. A formal offer of proof made to preserve an exception to a ruling of the trial court excluding evidence as inadmissible or holding the witness to be incompetent. *Murphy v Phelps*, 241 Ky 339, 43 SW2d 1010; *Huff v Commonwealth*, 248 Ky 700, 59 SW2d 985; 53 Am J1st Trial §§ 99-103.

avowant. A person who avows; a person who makes an avowry. One who makes an avowal.

avowee. An advocate of a church living.

avowry. A landlord's common-law pleading justifying the distraint of property. 32 Am J1st L & T § 647.

avowterer. An adulterer.

avowtry. Adultery.

avulsion. A sudden and perceptible loss or addition to land by the action of water, or a sudden change in the bed or course of a stream. 56 Am J1st Water § 477.

avunculus. A mother's brother; a maternal uncle. See 2 Bl Comm 230.

avunculus magnus. A grandmother's brother, a great uncle.

avus. A grandfather. See 2 Bl Comm 207.

await. To delay; to wait for an event; to waylay.

await further conveyance. A clause in a bill of lading relieving the carrier from liability other than as warehousemen respecting property at its depot or pier to be accepted by a succeeding carrier. Texas & Pacific R. Co. v Reiss, 183 US 621, 46 L Ed 358, 22 S Ct 252.

award. The decision, decree, or judgment of arbitrators determining the disputed matter submitted to them. 5 Am J2d Arb & A § 124. In effect, a judgment, where workmens' compensation is awarded. 38 Am J1st Workm Comp § 484. A judgment or order for the payment of costs. 20 Am J2d Costs § 87. A judgment or decree of an admiralty court for salvage. 47 Am J1st SaIv § § 31 et seq. The amount of a judgment or verdict.

award in gross. A final property settlement between the parties which, when legally brought about, is as binding, conclusive, and final as the decree of divorce itself, its purpose being to finally adjust and determine the financial relations as well as the marital rights at one and the same time. Anno: 127 ALR 744.

See **alimony in gross**.

aware of. Informed or having knowledge of something.

See **become aware of**.

away-going crops. Annual crops which mature after the termination of a tenancy but are nevertheless removable by the tenant. 21 Am J2d Crops § 25.

awm. A wine measure.

axiom. A principle that is not disputed; a maxim.

ayant cause. (French law.) An assignee.

ayant droit. (French law.) Person entitled.

ayde. Same as **aid**.

ayd pryer. Same as **aid prayer**.

ay. Yes; an affirmative vote.

ayel. Same as **aiel**.

ayle. A grandfather.

ayre. (Scotch.) An eyre; a circuit.

ayuntamiento. The council or cabildo of the capital of a Spanish-American jurisdiction.

The seats of administration or capitals of provinces or other lesser divisions were generally the largest towns from which the section usually took its name. In every such capital there was an ayuntatmento. *Strother v Lucas*, 12 Pet (US) 410, 442, note, 9 L Ed 1137, 1149, note.

Azo. An ancient teacher of law who lived at Bologna.