J

J. The initial letter of the words "judge" and "justice," for which it frequently stands as an abbreviation. Thus, "J. A.," judge advocate; "J. J.," junior judge; "L. J.," law judge; "P. J.," president judge; "F. J.," first judge; "A. J.," associate judge; "C. J.," chief justice or judge; "J. P.," justice of the peace; "JJ.," judges or justices; "J. C. P.," justice of the common pleas; "J. K. B.," justice of the king's bench; "J. Q. B.," justice of the queen's bench; "J. U. B.," justice of the upper bench.

This letter is sometimes used for "I," as the initial letter of "Institutiones," in references to the Institutes of Justinian.

JAC. An abbreviation for "*Jacobus*," the Latin form of the names James; used principally in citing statutes enacted in the reigns of the English kings of that name; *e. g.*, "St. 1 Jac. II." Used also in citing the second part of Croke's reports; thus, "Cro. Jac." denotes "Croke's reports of cases in the time of James I."

JACENS. Lat. Lying in abeyance, as in the phrase "*hæreditas jacens*," which is an inheritance or estate lying vacant or in abeyance prior to the ascertainment of the heir or his assumption of the succession.

JACENS HÆREDITAS. See Hæreditas Jacens.

JACET IN ORE. Lat. In old English law. It lies in the mouth. Fleta, lib. 5, c. 5, § 49.

JACK. A kind of defensive coat-armor worn by horsemen in war; not made of solid iron, but of many plates fastened together. Some tenants were bound by their tenure to find it upon invasion. Cowell.

JACOB'S LADDER. A ladder with sides of rope and with wooden steps, frequently used on shipboard. Maloney v. Cunard S. S. Co., 217 N. Y. 278, 111 N. E. 835, 836.

JACOBUS. A gold coin an inch and three-eighths in diameter, in value about twenty-five shillings, so called from James I., in whose reign it was first coined. It was also called *broad*, *laurel*, and *broad-piece*. Its value is sometimes put at twenty-four shillings, but Macaulay speaks of a salary of eight thousand Jacobuses as equivalent to ten thousand pounds sterling. Hist. Eng. ch. xv.

JACTITATION. Boasting of something which is challenged by another. Moz. & W. A false boasting; a false claim; assertions repeated to the prejudice of another's right.

The species of defamation or disparagement of another's title to real estate known at common law as "slander of title" comes under the head of jactitation, and in some jurisdictions (as in Louisiana) a remedy for this injury is provided under the name of an "action of jactitation."

The action in jactitation of title is governed by the rules prescribed by the Code of Practice, under the title, "Possessory Actions," and differs materially from the common-law action of slander of title. Bill v. Saunders, 139 La. 1037, 72 So. 727, 729.

—Jactitation of a right to a church sitting appears to be the boasting by a man that he has a right or title to a pew or sitting in a church to which he has legally no title.

—Jactitation of marriage. In English ecclesiastical law. The boasting or giving out by a party that he or she is married to some other, whereby a common reputation of their matrimony may ensue. To defeat that result, the person may be put to a proof of the actual marriage, failing which proof, he or she is put to silence about it. 3 Bl. Comm. 93. The Scotch suit of a declarator of putting to silence is equivalent to jactitation of marriage.

—Jactitation of tithes is the boasting by a man that he is entitled to certain tithes, to which he has legally no title. See Rog. Ecc. L. 482.

In Medical Jurisprudence

Involuntary convulsive muscular movement; restless agitation or tossing of the body to and fro. Leman v. Insurance Co., 46 La. Ann. 1189, 15 So. 388, 24 L. R. A. 589, 49 Am. St. Rep. 348.

JACTIVUS. Lost by default; tossed away. Cowell.

JACTURA. In the civil law. A throwing of goods overboard in a storm; jettison. Loss from such a cause. Calvin.

JACTUS. A throwing goods overboard to lighten or save the vessel, in which case the goods so sacrificed are a proper subject for general average. Dig. 14, 2, "*de lege Rhodia de Jactu.*" And see Barnard v. Adams, 10 How. 303, 13 L. Ed. 417.

JACTUS LAPILLI. The throwing down of a stone. One of the modes, under the civil law, of interrupting prescription. Where one person was building on another's ground, and in this way acquiring a right by *usucapio*, the true owner challenged the intrusion and interrupted the prescriptive right by throwing down one of the stones of the building before witnesses called for the purpose. Tray. Lat. Max.

JAIL. A gaol; a prison; a building designated by law, or regularly used, for the confinement of persons held in lawful custody. State v. Bryan, 89 N. C. 534. See Gaol.

A "jail" is therefore distinguishable both in law and in common understanding from a temporary place of detention, like a police station or lockup. People ex rel. Murphy v. Holcomb, 111 Misc. 460, 181 N. Y. S. 780, 783.

While the primary function of a "jail" is a place of detention for persons committed thereto, under sentence of a court, it is also the proper and usual place where persons under arrest or awaiting trial are kept until they appear in court and the charge disposed of. Grab v. Lucas, 156 Wis. 504, 146 N. W. 504, 505.

JAIL DELIVERY. See Gaol.

JAIL LIBERTIES. See Gaol.

JAILER. A keeper or warden of a prison or jail. Lefman v. Schuler, 317 Mo. 671, 296 S. W. 808, 814.

JAKE. A low colloquialism applied to liquor reputed to be composed of a mixture of Jamaica ginger and some other beverage or beverages. Skelton v. State. 31 Okl. Cr. 343, 239 P. 189, 190.

JAMB. A side post or side of a doorway, window, opening, or fire place; a side or vertical piece of any opening or aperture in a wall which helps to bear an overhead member. Superior Skylight Co. v. Zerbe Const. Co. (D. C.) 5 F.(2d) 982, 986.

JAMBEAUX. In old English and feudal law. Leg-armor. Blount.

JAMMA, JUMMA. In Hindu law. Total amount; collection; assembly. The total of a territorial assignment.

JAMMABUNDY, JUMMABUNDY. In Hindu law. A written schedule of the whole of an assessment.

JAMMUNDLING. See Jamunlingi.

JAMPNUM. Furze, or grass, or ground where furze grows; as distinguished from "arable," "pasture," or the like. Co. Litt. 5*a*.

JAMUNLINGI, JAMUNDILINGI. Freemen who delivered themselves and property to the protection of a more powerful person, in order to avoid military service and other burdens. Spelman. Also a species of serfs among the Germans. Du Cange. The same as *commendati*.

JANITOR.

In old English Law

A door-keeper. Fleta, lib. 2, c. 24.

In Modern Law

A person employed to take charge of rooms or buildings, to see that they are kept clean and in order, to lock and unlock them, and generally to care for them. Fagan v. New York, 84 N. Y. 352; Kramer v. Industrial Acc. Commission of State of California, 31 Cal. App. 673, 161 P. 278.

JAQUES. In old English law. Small money.

JAVELIN-MEN. Yeomen retained by the sheriff to escort the judge of assize.

JAVELOUR. In Scotch law. Jailer or gaoler. 1 Pitc. Crim. Tr. pt. 1, p. 33.

JAY WALKING. Proceeding diagonally across a street intersection. Gett v. Pacific Gas & Electric Co., 192 Cal. 621, 221 P. 376, 378.

JEDBURGH JUSTICE. Summary justice inflicted upon a marauder or felon without a regular trial, equivalent to "lynch law." So called from a Scotch town, near the English border, where raiders and cattle lifters were often summarily hung. Also written "Jeddart" or "Jedwood" justice.

JEMAN. In old records. Yeoman. Cowell; Blount.

JENNY. With names of animals, often used to denote a female; also short for "jenny ass," "jenny wren," etc. Likewise short for "spinning jenny." Webster, Dict.; O'Rear v. Richardson, 17 Ala. App. 87, 81 So. 865, 866.

JEOFAILE. L. Fr. I have failed; I am in error. An error or oversight in pleading.

Certain statutes are called "statutes of amendments and jeofailes" because, where a pleader perceives any slip in the form of his proceedings, and acknowledges the error, (jeofaile,) he is at liberty, by those statutes, to amend it. The amendment, however, is seldom made; but the benefit is attained by the court's overlooking the exception. 3 Bl. Comm. 407; 1 Saund. p. 228, no. 1.

Jeofaile is when the parties to any suit in pleading have proceeded so far that they have joined issue which shall be tried or is tried by a jury or inquest, and this pleading or issue is so badly pleaded or joined that it will be error if they proceed. Then some of the said parties may, by their counsel, show it to the court, as well after verdict given and before judgment as before the jury is charged. And the counsel shall say: "This inquest ye ought not to take." And if it be after verdict, then he may say: "To judgment you ought not to go." And, because such niceties occasioned many delays in suits, divers statutes are made to redress them. Termes de la Ley.

JEOPARDY. Danger; hazard; peril.

The danger of conviction and punishment which the defendant in a criminal action incurs when a valid indictment has been found, and a petit jury has been impaneled and sworn to try the case and give a verdict in a court of competent jurisdiction. State v. Nelson, 26 Ind. 368; State v. Emery, 59 Vt. 84, 7 A. 129; People v. Terrill, 132 Cal. 497, 64 P. 894; Mitchell v. State, 42 Ohio St. 383; Grogan v. State, 44 Ala. 9; Ex parte Glenn (C. C.) 111 F. 258; State v.

McKee, 1 Bail. (S. C.) 655, 21 Am. Dec. 499; State v. Yokum, 155 La. 846, 99 So. 621, 631.

The peril in which a prisoner is put when he is regularly charged with a crime before a tribunal properly organized and competent to try him. Com. v. Fitzpatrick, 121 Pa. 109, 15 A. 466, 1 L. R. A. 451, 6 Am. St. Rep. 757; Peavey v. State, 153 Ga. 119, 111 S. E. 420.

The situation of a defendant when the jury is impaneled and sworn and the issues presented on a valid indictment or information in a court of competent jurisdiction. State v. Thompson, 58 Utah, 291, 199 P. 161, 163, 38 A. L. R. 697.

The condition of a person when he is put upon trial, before a court of competent jurisdiction, upon an indictment or information which is sufficient in form and substance to sustain a conviction, and a jury has been charged with his deliverance. Allen v. State, 13 Okl. Cr. 533, 165 P. 745, 748, L. R. A. 1917E, 1085; Runyon v. Morrow, 192 Ky. 785, 234 S. W. 304, 306, 19 A. L. R. 632; State v. Runyon, 100 W. Va. 647, 131 S. E. 466, 467.

The terms "jeopardy of life and liberty for the same offense," "jeopardy of life or limb," "jeopardy for the same offense," "in jeopardy of punishment," and other similar provisions used in the various Constitutions, are to be construed as meaning substantially the same thing. Stout v. State, 36 Okl. 744, 130 P. 553, 556, 45 L. R. A. (N. S.) 884, Ann. Cas. 1916E, 858.

JERGUER. In English law. An officer of the custom-house who oversees the waiters. Techn. Dict.

JERK. A sudden movement or lurch;—"lurch" being used, however, with specific reference to sidewise movements. St. Louis Southwestern Ry. Co. of Texas v. Farris (Tex. Civ. App.) 166 S. W. 463.

JESSE. A large brass candlestick, usually hung in the middle of a church or choir. Cowell.

JET. Fr. In French law. Jettison. Ord. Mar. liv. 3, tit. 8; Emerig. Traité des Assur. c. 12, § 40.

JETSAM. Goods which, by the act of the owner, have been voluntarily cast overboard from a vessel, in a storm or other emergency, to lighten the ship. 1 C. B. 113.

Jetsam is where goods are cast into the sea, and there sink and remain under water. 1 Bl. Comm. 292.

The sense of "goods thrown overboard and sunk at sea" is an error arising apparently in the attempt to distinguish "jetsam" from "flotsam," the latter being properly wreckage of a ship or its cargo found floating on the sea. Webster, Dict.

JETTISON. The act of throwing overboard from a vessel part of the cargo, in case of extreme danger, to lighten the ship.

Also, the thing or things so cast out; jetsam. Gray v. Waln, 2 Serg. & R. (Pa.) 254, 7 Am. Dec. 642; Butler v. Wildman, 3 Barn. & Ald. 326; Barnard v. Adams, 10 How. 303, 13 L. Ed. 417.

A carrier by water may, when in case of extreme peril it is necessary for the safety of the ship or cargo, throw overboard, or otherwise sacrifice, any or all of the cargo or appurtenances of the ship. Throwing property overboard for such purpose is called "jettison," and the loss incurred thereby is called a "general average loss." Civil Code Cal. § 2148; Civil Code Dak. § 1245 (Comp. Laws 1913, N. D. § 6225; Rev. Code 1919, S. D. § 1147).

JETTY. A projection of stone or other material serving as a protection against the waves. Storm v. Town of Wrightsville Beach, 189 N. C. 679, 128 S. E. 17, 19.

JEUX DE BOURSE. Fr. In French law. Speculation in the public funds or in stocks; gambling speculations on the stock exchange; dealings in "options" and "futures."

A kind of gambling or speculation, which consists of sales and purchases which bind neither of the parties to deliver the things which are the object of the sale, and which are settled by paying the difference in the value of the things sold between the day of the sale and that appointed for delivery of such things. 1 Pardessus, *Droit Com.* n. 162.

JEWEL. An ornament of the person, such as ear-rings, pearls, diamonds, etc., prepared to be worn. See Com. v. Stephens, 14 Pick. (Mass.) 373; Robbins v. Robertson (C. C.) 33 F. 710; Cavendish v. Cavendish, 1 Brown Ch. 409; Ramaley v. Leland, 43 N. Y. 541, 3 Am. Rep. 728; Gile v. Libby, 36 Barb. (N. Y.) 77. An ornament made of precious metal or a precious stone. Wagner v. Congress Square Hotel Co., 115 Me. 190, 98 A. 660, 662.

JEWELRY. Jewels collectively. Wagner v. Congress Square Hotel Co., 115 Me. 190, 98 A. 660, 662.

JEWISH SABBATH. A period which begins at sundown Friday night and ends at sundown Saturday night, and does not conform to a full statutory day according to the Christian calendar. Cohen v. Webb, 175 Ky. 1, 192 S. W. 828, 829.

JIGGER BOSS. In mining parlance, a "pusher" or kind of foreman engaged for the purpose of encouraging or hastening the men. Ryan v. Manhattan Big Four Mining Co., 38 Nev. 92, 145 P. 907, 908.

JITNEY. A self-propelled vehicle, other than a street car, traversing the public streets between certain definite points or termini, and, as a common carrier, conveying passengers at a five-cent or some small fare, between such termini and intermediate points, and so held out, advertised, or announced. City of Memphis v. State, 133 Tenn. 83, 179 S. W. 631, 634, L. R. A. 1916B, 1151, Ann. Cas. 1917C, 1056. A motor vehicle carrying passengers for fare. Ft. Lee, etc., Transp. Co. v. Borough of Edgewater, 99 N. J. Eq. 850, 133 A. 424, 425. Also called "jitney bus." Huston v. City of Des Moines, 176 Iowa, 455, 156 N. W. 883, 888.

JOB. The whole of a thing which is to be done. "To build by plot, or to work by the job, is to undertake a building for a certain stipulated price." Civ. Code La. art. 2727 (Civ. Code, art. 2756).

JOBBER. One who buys and sells goods for others; one who buys or sells on the stock exchange; a dealer in stocks, shares, or securities. One who buys and sells articles in bulk and resells them to dealers. A merchant buying and selling in job lots. Wasserstrom v. Cohen, Frank & Co., 165 App. Div. 171, 150 N. Y. S. 638, 639. A sort of middleman. Great Atlantic & Pacific Tea Co. v. Cream of Wheat Co. (C. C. A.) 227 F. 46, 47.

JOBMASTER. In English law, one who carries on the business of letting out carriages and horses or other vehicles with drivers for hire; a livery stable keeper. Hyman v. Nye, 6 Queen's Bench, 685.

JOCALIA. In old English law. Jewels. This term was formerly more properly applied to those ornaments which women, although married, call their own. When these *jocalia* are not suitable to her degree, they are assets for the payment of debts. 1 Rolle, Abr. 911.

JOCELET. A little manor or farm. Cowell.

JOCKEY CLUB. An association of persons for the purpose of regulating all matters connected with horse racing. See Corrigan v. Jockey Club, 2 Misc. 512, 22 N. Y. S. 394.

JOCUS. In old English law. A game of hazard. Reg. Orig. 290.

JOCUS PARTITUS. In old English practice. A divided game, risk, or hazard. An arrangement which the parties to a suit were anciently sometimes allowed to make by mutual agreement upon a certain hazard, as that one should lose if the case turned out in a certain way, and, if it did not, that the other should gain. Bract. fols. 211*b*, 379*b*, 432, 434, 200*b*.

JOHN DOE. A fictitious name frequently used to indicate a person for the purpose of argument or illustration, or in the course of enforcing a fiction in the law. The name which was usually given to the fictitious lessee of the plaintiff in the mixed action of ejectment. He was sometimes called "Goodtitle." So the Romans had their fictitious personages in law proceedings, as *Titius, Seius.*

JOIN. To unite; to come together; to combine or unite in time, effort, action; to enter into an alliance. Lowery v. Westheimer, 58 Okl. 560, 160 P. 496, 500.

JOINDER. Joining or coupling together; uniting two or more constituents or elements in one; uniting with another person in some legal step or proceeding; union; concurrence.

—Joinder in demurrer. When a defendant in an action tenders an issue of law, (called a "demurrer,") the plaintiff, if he means to maintain his action, must accept it, and this acceptance of the defendant's tender, signified by the plaintiff in a set form of words, is called a "joinder in demurrer." Brown; Co. Litt. 71 *b*; Thompson v. Goudelock, 10 Rich. (S. C.) 49.

—Joinder in issue. In pleading. A formula by which one of the parties to a suit joins in or accepts an issue in fact tendered by the opposite party. Steph. Pl. 57, 236. More commonly termed a "*similiter.*" (*q. v.*)

—Joinder in pleading. Accepting the issue, and mode of trial tendered, either by demurrer, error, or issue, in fact, by the opposite party.

—Joinder of actions. This expression signifies the uniting of two or more demands or rights of action in one action; the statement of more than one cause of action in a declaration.

—Joinder of error. In proceedings on a writ of error in criminal cases, the joinder of error is a written denial of the errors alleged in the assignment of errors. It answers to a joinder of issue in an action.

—Joinder of issue. The act by which the parties to a cause arrive at that stage of it in their pleadings, that one asserts a fact to be so, and the other denies it.

—Joinder of offenses. The uniting of several distinct charges of crime in the same indictment or prosecution.

—Joinder of parties. The uniting of two or more persons as co-plaintiffs or as co-defendants in one suit.

—Misjoinder. The improper joining together of parties to a suit, as plaintiffs or defendants, or of different causes of action. Burstall v. Beyfus, 53 Law J. Ch. 567; Phenix Iron Foundry v. Lockwood, 21 R. I. 556, 45 A. 546.

Misjoinder of actions is the joining several demands which the law does not permit to be joined, to enforce by one proceeding several distinct, substantive rights of recovery. Gould, Pl. c. 4, § 98; Archb. Civ. Pl. 61; Dane, Abr. In equity, it is the joinder of different and distinct claims against one defendant; Adams, Eq. 309; 7 Sim. 241; Newland v. Rogers, 3 Barb. Ch. (N. Y.) 432.

Misjoinder of parties is the joining, as plaintiffs or defendants, parties who have not a joint interest. Billy v. McGill, 113 Okl. 153, 240 P. 119, 121; Gagle v. Besser, 162 Iowa, 227, 144 N. W. 3, 4.

Misjoinder in a criminal prosecution is the charging in separate counts of separate and distinct offenses arising out of wholly different transactions having no connection or relation with each other. Optner v. U. S. (C. C. A.) 13 F.(2d) 11, 13.

—**Nonjoinder.** The omission to join some person as party to a suit, whether as plaintiff or defendant, who ought to have been so joined, according to the rules of pleading and practice. Bardock Iron & Steel Co. v. Tenenbaum, 136 Va. 163, 118 S. E. 502, 505.

JOINT. United; combined; undivided; done by or against two or more unitedly; shared by or between two or more. The term is used to express a common property interest enjoyed or a common liability incurred by two or more persons. Thus, it is one in which the obligors (being two or more in number) bind themselves jointly but not severally, and which must therefore be prosecuted in a joint action against them all;—distinguished from "joint and several" obligation.

A place of meeting or resort for persons engaged in evil and secret practices of any kind, as a tramps' joint, an "opium joint," or, generally speaking, a rendezvous for persons of evil habits and practices. State v. Shoaf, 179 N. C. 744, 102 S. E. 705, 706, 9 A. L. R. 426.

In masonry, the permanent meeting surface of two bodies, as stones or bricks, held together by cement or otherwise, and, in paving blocks, the space between the side faces of the blocks brought together or nearly in touch. Central Union Stock Yards Co. v. Uvalde Asphalt Paving Co., 82 N. J. Eq. 246, 87 A. 235, 239.

As to joint "Adventure," "Ballot," "Committee," "Contract," "Covenant," "Creditor," "Executors," "Fiat," "Fine," "Heirs," "Indictment," "Obligation," "Obligee," "Obligor," "Owner," "Rate," "Resolution," "Session," "Tenancy," "Tenants," "Tortfeasor," "Trespass," "Trespassers," "Trustees," and "Will," see those titles. As to joint-stock banks, see Bank; joint-stock company, see Company; joint-stock corporation, see Corporation.

JOINT ACTION. An action brought by two or more as plaintiffs or against two or more as defendants.

JOINT AND SEVERAL. A liability is said to be joint and several when the creditor may sue one or more of the parties to such liability separately, or all of them together at his option. Dicey, Parties 230. A joint and several bond or note is one in which the obligors or makers bind themselves both jointly and individually to the obligee or payee, so that all may be sued together for its enforcement, or the creditor may select one or more as the object of his suit. See Mitchell v. Darricott, 3 Brev. (S. C.) 145; Rice v. Gove, 22 Pick. (Mass.) 158, 33 Am. Dec. 724.

JOINT CAUSE OF ACTION. This term, as used in Equity rule 26 (201 F. v, 118 C. C. A. v [28 USCA § 723]), does not mean a technical legal privity, such as a joint contract; but the rule will be satisfied where there is a single question of law and fact common to all the complainants, as where in a suit to quiet title they claim separate parcels of land under a common source of title. Commodores Point Terminal Co. v. Hudnall (D. C.) 283 F. 150, 171.

JOINT DEBTORS. Persons united in a joint liability or indebtedness. Two or more persons jointly liable for the same debt. See Robertson v. Smith, 18 Johns. (N. Y.) 459, 9 Am. Dec. 227; Ex parte Zeigler, 83 S. C. 78, 64 S. E. 513, 916, 21 L. R. A. (N. S.) 1005.

JOINT DEBTORS' ACTS. Statutes enacted in many of the states, which provide that judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants, and that, "in an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper." The name is also given to statutes providing that where an action is instituted against two or more defendants upon an alleged joint liability, and some of them are served with process, but jurisdiction is not obtained over the others, the plaintiff may still proceed to trial against those who are before the court, and, if he recovers, may have judgment against all of the defendants whom he shows to be jointly liable. 1 Black, Judgm. §§ 208, 235. And see Hall v. Lanning, 91 U. S. 168, 23 L. Ed. 271.

JOINT ENTERPRISE. Within the law of imputed negligence, the joint prosecution of a common purpose under such circumstances that each has authority express or implied to act for all in respect to the control or agencies employed to execute such common purpose. Hines v. Welch (Tex. Civ. App.) 229 S. W. 681, 683. An enterprise participated in by associates acting together. Howard v. Zimmerman, 120 Kan. 77, 242 P. 131, 132. There must be a community of interests in the objects or purposes of the undertaking, and an equal right to direct and govern the movements and conduct of each other with respect thereto; each must have some voice and right to be heard in its control or management. St. Louis & S. F. R. Co. v. Bell, 58 Okl. 84, 159 P. 336, 337, L. R. A. 1917A, 543; Landry v. Hubert, 100 Vt. 268, 137 A. 97; Crescent Motor Co. v. Stone, 211 Ala. 516, 101 So. 49, 50; Jessup v. Davis, 115 Neb. 1, 211 N. W. 190, 192, 56 A. L. R. 1403; Northern Texas Traction Co. v. Woodall (Tex. Civ. App.) 294 S. W. 873, 877; Meyers v. Southern Pac. Co., 63 Cal. App. 164, 218 P. 284, 287. See, also, Kokesh v. Price, 136 Minn. 304, 161 N. W. 715, 717, 23 A. L. R. 643; Boyd v. Close, 82 Colo. 150, 257 P. 1079, 1081; Director General of Railroads v. Pence's Adm'x, 135 Va. 329, 116 S. E. 351, 356. Synonymous with partnership; Beierla v. Hockenedel, 25 Ohio App. 186, 157 N. E. 573, 575; *contra*: Connellee v. Nees (Tex. Com. App.) 266 S. W. 502, 503.

JOINT INDUSTRY OF HUSBAND AND WIFE. This phrase, as applied in Oklahoma statutes to property passing by descent, means the industry of a husband and wife each, in his or her recognized sphere of marital activity, and not that both must pursue jointly the same business or calling. In re Stone's Estate, 86 Okl. 33, 206 P. 246, 247. See, also, Chamberlain v. Chamberlain, 121 Okl. 145, 247 P. 684, 687.

JOINT LIVES. This expression is used to designate the duration of an estate or right which is granted to two or more persons to be enjoyed so long as they both (or all) shall live. As soon as one dies, the interest determines. See Highley v. Allen, 3 Mo. App. 524.

JOINTIST. A person established in a definite place of business, for the purpose of illegally selling intoxicants. Scriven v. City of Lebanon, 99 Kan. 602, 162 P. 307, 309, L. R. A. 1917C, 460. One who opens up, conducts, or maintains any place for the unlawful sale of intoxicating liquors. Rem. Comp. Stat. Wash. § 7328; State v. Pistona, 127 Wash. 171, 219 P. 859, 860.

JOINTLY. Unitedly, combined or joined together in unity of interest or liability. Soderberg v. Atlantic Lighterage Corporation (D. C.) 15 F.(2d) 209. In a joint manner; in concert; not separately; in conjunction. In re Haddock's Will, 170 App. Div. 26, 155 N. Y. S. 630, 632; Reclamation Dist. v. Parvin, 67 Cal. 501, 8 Pac. 43; Gold & Stock Tel. Co. v. Commercial Tel. Co. (C. C.) 23 Fed. 342; Case v. Owen, 139 Ind. 22, 38 N. E. 395, 47 Am. St. Rep. 253. Participated in or used by two or more, held or shared in common. Wunderlich v. Bleyle, 96 N. J. Eq. 135, 125 A. 386, 388. These are the nontechnical meanings of the word, which it frequently has in wills, as opposed to its technical signification creating a joint tenancy. Overheiser v. Lackey, 207 N. Y. 229, 100 N. E. 738, Ann. Cas. 1914C, 229.

Persons are "jointly bound" in a bond or note when both or all must be sued in one action for its enforcement, not either one at the election of the creditor.

JOINTLY AND SEVERALLY. See Joint and Several.

JOINTRESS, JOINTURESS. A woman who has an estate settled on her by her husband, to hold during her life, if she survive him. Co. Litt. 46.

JOINTURE. A freehold estate in lands or tenements secured to the wife, and to take effect on the decease of the husband, and to continue during her life at the least, unless she be herself the cause of its determination. Vance v. Vance, 21 Me. 369.

A competent livelihood of freehold for the wife, of lands and tenements, to take effect, in profit or possession, presently after the death of the husband, for the life of the wife at least. Comstock v. Comstock, 146 Ark. 266, 225 S. W. 621, 622; Co. Litt. 36*b*; 2 Bl. Comm. 137. See Fellers v. Fellers, 54 Neb. 694, 74 N. W. 1077; Saunders v. Saunders, 144 Mo. 482, 46 S. W. 428; Graham v. Graham, 67 Hun, 329, 22 N. Y. Supp. 299.

A jointure strictly signifies a joint estate limited to both husband and wife, and such was its original form; but, in its more usual form, it is a sole estate limited to the wife only, expectant upon a life-estate in the husband. 2 Bl. Comm. 137; 1 Steph. Comm. 255.

In England, before the time of Henry VIII, in order to protect a wife who was deprived of dower by conveyances to uses, it was the usual custom of the husband before marriage to take an estate from his feoffees and limit it to himself and his intended wife for their lives in joint tenancy or jointure to protect the wife in case of his death, and St. 27 Henry VIII prohibited the widow from having both dower and jointure, which has been continued as part of law by Acts Va. 1785, c. 65 (1 Hening's St. at Large, p. 162), Rev. Code 1819, c. 107, and Code 1849, c. 110 (Code 1930, § 5117 et seq.). Jacobs v. Jacobs, 100 W. Va. 585, 131 S. E. 449, 453.

JOKER. In political usage, a clause in legislation that is ambiguous or apparently immaterial, inserted to render it inoperative or uncertain without arousing opposition at the time of passage. Bennet v. Commercial Advertiser Ass'n, 230 N. Y. 125, 129 N. E. 343, 344.

JONCARIA, or JUNCARIA. In old English law. Land where rushes grow. Co. Litt. 5*a*.

JORNALE. In old English law. As much land as could be plowed in one day. Spelman.

JOSH. To ridicule or tease, or make fun of in a joke, to lure or tease by misrepresenting the facts. State v. Powers, 181 Iowa, 452, 164 N. W. 856, 861.

JOUR. A French word, signifying "day." It is used in our old law-books; as "*tout jours*," forever. It is also frequently employed in the composition of words: as, *journal*, a day-book; *journey-man*, a man who works by the day; *journeys account*.

JOUR EN BANC. A day *in banc*. Distinguished from "*jour en pays*," (a day in the country,) otherwise called "*jour en nisi prius*."

JOUR IN COURT. In old practice. Day in court; day to appear in court; appearance day. "Every process gives the defendant a day in court." Hale, Anal. § 8.

JOURNAL. A daily book; a book in which entries are made or events recorded from day to day. In maritime law, the journal (otherwise called "log" or "log-book") is a book kept on every vessel, which contains a brief record of the events and occurrences of each day of a voyage, with the nautical observations,

course of the ship, account of the weather, etc. In the system of double-entry bookkeeping, the journal is an account-book into which are transcribed, daily or at other intervals, the items entered upon the day-book, for more convenient posting into the ledger. In the usage of legislative bodies, the journal is a daily record of the proceedings of either house. It is kept by the clerk, and in it are entered the appointments and actions of committees, introduction of bills, motions, votes, resolutions, etc., in the order of their occurrence. See Oakland Pav. Co. v. Hilton, 69 Cal. 479, 11 Pac. 3; Montgomery Beer Bottling Works v. Gaston, 126 Ala. 425, 28 South. 497, 51 L. R. A. 396, 85 Am. St. Rep. 42; Martin v. Com., 107 Pa. 190.

The daily printed pamphlets which contain the record of the proceedings of each house of the Legislature are the "journals" of the respective houses. Amos v. Moseley, 74 Fla. 555, 77 So. 619, 621, L. R. A. 1918C, 482.

A "journal" is a permanent record, and the daily minutes kept by the secretary of the Senate or the journal clerk from which the permanent record is finally made up, does not constitute a part of the journal. Niven v. Road Improvement Dist. No. 14 of Jefferson County, 132 Ark. 240, 200 S. W. 997, 998.

JOURNEY. Originally, a day's travel. The word is now applied to a travel by land from place to place, without restriction of time. But, when thus applied, it is employed to designate a travel which is without the ordinary habits, business, or duties of the person, to a distance from his home, and beyond the circle of his friends or acquaintances. Gholson v. State, 53 Ala. 521, 25 Am. Rep. 652.

JOURNEY-HOPPERS. In English law. Regrators of yarn. 8 Hen. VI. c. 5.

JOURNEYMAN. A workman hired by the day, or other given time. Hart v. Aldridge, 1 Cowp. 56; Butler v. Clark, 46 Ga. 468.

JOURNEYS ACCOUNT. In English practice. A new writ which the plaintiff was permitted to sue out within a reasonable time after the abatement, without his fault, of the first writ. This time was computed with reference to the number of days which the plaintiff must spend in *journeying* to reach the court: hence the name of *journeys account*, that is, journeys *accomptes* or *counted*. Co. Litt. fol. 9 *b*; English v. T. H. Rogers Lumber Co., 68 Okl. 238, 173 P. 1046, 1048.

This mode of proceeding has fallen into disuse, the practice now being to permit that writ to be quashed, and to sue out another. See *Termes de la Ley*; Bacon, Abr. *Abatement* (Q); 14 Viner, Abr. 558; 4 Com. Dig. 714; 7 M. & G. 762; Richards v. Ins. Co., 8 Cranch, 84, 3 L. Ed. 496.

JUBERE. Lat. In the civil law. To order, direct, or command. Calvin. The word *jubeo* (I order,) in a will, was called a "word of direction," as distinguished from "precatory words." Cod. 6, 43, 2.

To assure or promise.

To decree or pass a law.

JUBILACION. In Spanish law. The privilege of a public officer to be retired, on account of infirmity or disability, retaining the rank and pay of his office (or part of the same) after twenty years of public service, and on reaching the age of fifty.

JUDÆUS, JUDEUS. Lat. A Jew.

JUDAISMUS. The religion and rites of the Jews. Du Cange. A quarter set apart for residence of Jews. Du Cange. A usurious rate of interest. 1 Mon. Angl. 839; 2 Mon. Angl. 10,665. *Sex marcus sterlingorum ad acquietandam terram prædictum de Judaismo, in quo fuit impignorata.* Du Cange. An income anciently accruing to the king from the Jews. Blount.

JUDEX. Lat.

In Roman Law

A private person appointed by the prætor, with the consent of the parties, to try and decide a cause or action commenced before him. He received from the prætor a written formula instructing him as to the legal principles according to which the action was to be judged. Calvin. Hence the proceedings before him were said to be *in judicio*, as those before the prætor were said to be *in jure*.

A judge who conducted the trial from beginning to end; *magistratus*.

The practice of calling in *judices* was disused before Justinian's time: therefore, in the Code, Institutes, and Novels, *judex* means judge in its modern sense. Heineccius, Elem. Jur. Civ. § 1327. The term *judex* is used with very different significations at different periods of Roman law.

In Later and Modern Civil Law

A judge in the modern sense of the term.

In Old English Law

A juror. A judge, in modern sense, especially—as opposed to *justiciarius*, *i. e.*, a common-law judge—to denote an ecclesiastical judge. Bract. fols. 401, 402.

JUDEX A QUO. In modern civil law. The judge *from* whom, as *judex ad quem* is the judge *to* whom, an appeal is made or taken. Halifax, Civil Law, b. 3, c. 11, no. 34.

JUDEX AD QUEM. A judge to whom an appeal is taken.

Judex æquitatem semper spectare debet. A judge ought always to regard equity. Jenk. Cent. p. 45, case 85.

Judex ante oculos æquitatem semper habere debet. A judge ought always to have equity before his eyes. Jenk. Cent. p. 58.

Judex bonus nihil ex arbitrio suo faciat, neo proposito domesticæ voluntatis, sed juxta leges et jura pronunciet. A good judge should do nothing of his own arbitrary will, nor on the dictate of his personal inclination, but should decide according to law and justice. 7 Coke, 27*a*.

Judex damnatur cum nocens absolvitur. The judge is condemned when a guilty person escapes punishment.

JUDEX DATUS. In Roman law. A judge given, that is, assigned or appointed, by the prætor to try a cause.

Judex debet judicare secundum allegata et probata. The judge ought to decide according to the allegations and the proofs.

JUDEX DELEGATUS. A delegated judge; a special judge.

Judex est lex loquens. A judge is the law speaking, [the mouth of the law.] 7 Coke, 4*a*.

JUDEX FISCALIS. A fiscal judge; one having cognizance of matters relating to the *fiscus*, (*q. v.*).

Judex habere debet duos sales,—salem sapientiæ, ne sit insipidus; et salem conscientiæ, ne sit diabolus. A judge should have two salts,—the salt of wisdom, lest he be insipid [or foolish]; and the salt of conscience, lest he be devilish. 3 Inst. 147; Bart. Max. 189.

Judex non potest esse testis in propria causa. A judge cannot be a witness in his own cause. 4 Inst. 279.

Judex non potest injuriam sibi datam punire. A judge cannot punish a wrong done to himself. See 12 Coke, 114.

Judex non reddit plus quam quod petens ipse requirit. A judge does not give more than what the complaining party himself demands. 2 Inst. 286.

JUDEX ORDINARIUS. In the civil law. An ordinary judge; one who had the right of hearing and determining causes as a matter of his own proper jurisdiction, (*ex propria jurisdictione,*) and not by virtue of a delegated authority. Calvin. According to Blackstone judices ordinarii determined only questions of fact. 3 Bl. Comm. 315.

JUDEX PEDANEUS. In Roman law. Inferior judge; deputy judge. The judge who was commissioned by the prætor to hear a cause was so called, from the low seat which he anciently occupied at the foot of the prætor's tribunal.

JUDEX QUÆSTIONIS. A magistrate who decided the law of a criminal case, when the *prætor* himself did not sit as a magistrate. Morey, Rom. L. 88. The director of the criminal court under the presidency of the *prætor*. Harper's Lat. Dict.; Cic. Brut. 76, 264.

JUDEX SELECTUS. A select or selected *judex* or judge. The judges in criminal suits selected by the *prætor*. Harper's Lat. Dict.; Cic. Verr. 2, 2, 13, § 32. These *judices selecti* were used in criminal causes, and between them and modern *jurors* many points of resemblance have been noticed; 3 Bla. Comm. 366.

JUDGE. An officer so named in his commission, who presides in some court; a public officer, appointed to preside and to administer the law in a court of justice; the chief member of a court, and charged with the control of proceedings and the decision of questions of law or discretion. Todd v. U. S., 158 U. S. 278, 15 S. Ct. 889, 39 L. Ed. 982; Foot v. Stiles, 57 N. Y. 405; In re Lawyers' Tax Cases, 8 Heisk. (Tenn.) 650; In re Carter's Estate, 254 Pa. 518, 99 A. 58, 61; State v. Le Blond, 108 Ohio St. 126, 140 N. E. 510, 512. "Judge" and "Justice" (*q. v.*) are often used in substantially the same sense.

The term is sometimes held to include all officers appointed to decide litigated questions while acting in that capacity, including justices of the peace, and even jurors who are judges of the facts; Com. v. Dallas, 4 Dall. 229, 1 L. Ed. 812; Respublica v. Dallas, 3 Yeates (Pa.) 300; Webster v. Boyer, 81 Or. 485, 159 P. 1166, Ann. Cas. 1918D, 988; but see, contra, Alcorn v. Fellows, 102 Conn. 22, 127 A. 911, 915; Vollmer v. Board of Com'rs of Dubois County, 53 Ind. App. 149, 101 N. E. 321, 322. In ordinary legal use, however, the term is limited to the sense of the first of the definitions here given, People v. Wilson, 15 Ill. 388; and it has been held that a surrogate is not a "judge" within a statute providing for additional compensation to a judge for his services in drawing jurors, People ex rel. Noble v. Mitchel, 170 App. Div. 379, 155 N. Y. S. 660, 662; nor are United States commissioners judges, although they at times act in a quasi judicial capacity and exercise the power of a court, in so far as an act of Congress has conferred specific authority or imposed the performance of a special duty, United States v. Jones (D. C.) 230 F. 262, 264.

—Judge advocate. An officer of a court-martial, whose duty is to swear in the other members of the court, to advise the court, and to act as the public prosecutor; but he is also so far the counsel for the prisoner as to be bound to protect him from the necessity of answering criminating questions, and to object to leading questions when propounded to other witnesses.

—Judge advocate general. The adviser of the government in reference to courts-martial and other matters of military law. In England, he is generally a member of the house of commons and of the government for the time being.

—Judge de facto. One who holds and exercises the office of a judge under color of lawful authority and by a title valid on its face, though he has not full right to the office, as where he was appointed under an unconstitutional statute, or by an usurper of the appointing power, or has not taken the

oath of office. State v. Miller, 111 Mo. 542, 20 S. W. 243; Walcott v. Wells, 21 Nev. 47, 24 P. 367, 9 L. R. A. 59, 37 Am. St. Rep. 478; Dredla v. Baache, 60 Neb. 655, 83 N. W. 916; Caldwell v. Barrett, 71 Ark. 310, 74 S. W. 748; Layne v. State, 23 Okl. Cr. 36, 212 P. 328, 330; Parvin v. Johnson, 110 Kan. 356, 203 P. 721.

—Judge-made law. A phrase used to indicate judicial decisions which construe away the meaning of statutes, or find meanings in them the legislature never intended. It is sometimes used as meaning, simply, the law established by judicial precedent. Cooley, Const. Lim., 4th ed. 70, note.

—Judge ordinary. By St. 20 & 21 Vict. c. 85, § 9, the judge of the court of probate was made judge of the court for divorce and matrimonial causes created by that act, under the name of the "judge ordinary." In Scotland, the title "judge ordinary" is applied to all those judges, whether supreme or inferior, who, by the nature of their office, have a fixed and determinate jurisdiction in all actions of the same general nature, as contradistinguished from the old Scotch privy council, or from those judges to whom some special matter is committed; such as commissioners for taking proofs, and messengers at arms. Bell.

—Judge's certificate. In English practice. A certificate, signed by the judge who presided at the trial of a cause, that the party applying is entitled to costs. In some cases, this is a necessary preliminary to the taxing of costs for such party. A statement of the opinion of the court, signed by the judges, upon a question of law submitted to them by the chancellor for their decision. See 3 Bl. Comm. 453.

—Judge's minutes, or notes. Memoranda usually taken by a judge, while a trial is proceeding, of the testimony of witnesses, of documents offered or admitted in evidence, of offers of evidence, and whether it has been received or rejected, and the like matters.

—Judge's order. An order may by a judge at chambers, or out of court.

JUDGER. A Cheshire juryman. Jacob.

JUDGMENT. In practice. The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination. People v. Hebel, 19 Colo. App. 523, 76 P. 550; Bullock v. Bullock, 52 N. J. Eq. 561, 30 A. 676, 27 L. R. A. 213, 46 Am. St. Rep. 528; Eppright v. Kauffman, 90 Mo. 25, 1 S. W. 736; State v. Brown & Sharpe Mfg. Co., 18 R. I. 16, 25 A. 246, 17 L. R. A. 856.

The conclusion of law upon facts found, or admitted by the parties, or upon their default in the course of the suit. Tidd, Pr. 930; Truett v. Legg, 32 Md. 147; Siddall v. Jansen, 143 Ill. 537, 32 N. E. 384; Farmers' Elevator Co. of Beresford v. United States Fidelity & Guaranty Co. of Baltimore, Md., 41 S. D. 614, 172 N. W. 519, 520.

The final determination, by a court of competent jurisdiction, of the rights of the parties in an action or proceeding. Pearson v. Lovejoy, 53 Barb. (N. Y.) 407; Harbin v. State, 78 Iowa, 263, 43 N. W. 210; Bird v. Young, 56 Ohio St. 210, 46 N. E. 819; In re Smith's Estate, 98 Cal. 636, 33 P. 744; In re Beck, 63 Kan. 57, 64 P. 971; Bell v. Otts, 101 Ala. 186, 13 So. 43, 46 Am. St. Rep. 117; G. Amsinck & Co. v. Springfield Grocer Co. (C. C. A.) 7 F.(2d) 855, 858; Davis v. Norton, 36 Okl. 505, 129 P. 750, 752; Wells v. Shriver, 81 Okl. 108, 197 P. 460, 479; Loy v. McDowell, 85 Okl. 286, 205 P. 1089, 1091; Foreman v. Riley, 88 Okl. 75, 211 P. 495, 496; Motion Picture Patents Co. v. Universal Film Mfg. Co. (D. C.) 232 F. 263, 265; Fort Worth Acid Works v. City of Fort Worth (Tex. Civ. App.) 248 S. W. 822, 824; State v. Walton, 30 Okl. Cr. 416, 236 P. 629, 632; Petition of Kariher, 284 Pa. 455, 131 A. 265, 270.

The decision or sentence of the law, given by a court of justice or other competent tribunal, as the result of proceedings instituted therein for the redress of an injury. 3 Bla. Com. 395; Ætna Ins. Co. v. Swift, 12 Minn. 437 (Gil. 326).

The sentence of the law pronounced by the court upon the matter appearing from the previous proceedings in the suit. It is the conclusion that naturally follows from the premises of law and fact. Branch v. Branch, 5 Fla. 450; In re Sedgeley Ave., 88 Pa. 513.

The determination or sentence of the law, pronounced by a competent judge or court, as the result of an action or proceeding instituted in such court, affirming that, upon the matters submitted for its decision, a legal duty or liability does or does not exist. 1 Black, Judgm. § 1; Gunter v. Earnest, 68 Ark. 180, 56 S. W. 876; Danner v. Walker-Smith Co. (Tex. Civ. App.) 154 S. W. 295, 298; State v. Richards, 94 Ohio St. 287, 114 N. E. 263, 265.

In criminal law. An adjudication of guilt, and fixing of punishment. Washington v. State, 32 Okl. Cr. 392, 241 P. 350, 351.

The term "judgment" is also used to denote the reason which the court gives for its decision; but this is more properly denominated an "opinion."

Judgment and *decree*, as used in some statutes, are synonymous. Finnell v. Finnell, 113 Okl. 269, 230 P. 912, 913; Kline v. Murray, 79 Mont. 530, 257 P. 465, 467; Weeden v. Weeden, 116 Ohio St. 524, 156 N. E. 908, 909.

Classification

Judgments in civil actions, considered as to the persons upon whom, or the property upon which, they operate, are either *judgments*

in rem or *judgments in personam;* as to which see those titles.

With reference to the stage of the cause at the time they are rendered, judgments are further classified as follows: **1.** *Final* or *interlocutory.* A *final* judgment is one which puts an *end* to an action at law by declaring that the plaintiff either has or has not entitled himself to recover the remedy he sues for. 3 Bl. Comm. 398; Frank P. Miller Paper Co. v. Keystone Coal & Coke Co., 275 Pa. 40, 118 A. 565, 566. So distinguished from *interlocutory* judgments, which merely establish the right of the plaintiff to recover, in general terms. Id. 397. A judgment which determines a particular cause. Bostwick v. Brinkerhoff, 106 U. S. 3, 1 S. Ct. 15, 27 L. Ed. 73; Klever v. Seawall, 65 F. 377, 12 C. C. A. 653; Pfeiffer v. Crane, 89 Ind. 487; Nelson v. Brown, 59 Vt. 601, 10 A. 721. A judgment which cannot be appealed from, which is perfectly conclusive upon the matter adjudicated. Snell v. Cotton Gin Mfg. Co., 24 Pick. (Mass.) 300; Foster v. Neilson, 2 Pet. 294, 7 L. Ed. 415; Forgay v. Conrad, 6 How. 201, 12 L. Ed. 404; State v. Harmon, 87 Ohio St. 364, 101 N. E. 286, 288. A judgment which disposes of the subject-matter of the controversy or determines the litigation as to all parties on its merits. Lamberton v. McCarthy, 30 Idaho, 707, 168 P. 11; Dolen v. Muncie Sand Co., 110 Kan. 142, 202 P. 846; Wilson v. Board of County Com'rs of Tillman County, 64 Okl. 266, 167 P. 754; Sanders v. May, 173 N. C. 47, 91 S. E. 526, 527; Peabody Coal Co. v. Industrial Commission, 287 Ill. 407, 122 N. E. 843, 845; France & Canada S. S. Co. v. French Republic (C. C. A.) 285 F. 290, 294; Baxter v. Bevil Phillips & Co. (D. C.) 219 F. 309, 311; Judson Lumber Co. v. Patterson, 68 Fla. 100, 66 So. 727, 728; Williams v. Howard, 192 Ky. 356, 233 S. W. 753, 754; Sheppy v. Stevens (C. C. A.) 200 F. 946; Miller v. Farmers' State Bank & Trust Co. (Tex. Civ. App.) 241 S. W. 540, 541. A judgment which terminates all litigation on the same right. The term "final judgment," in the judiciary act of 1789, § 25, includes both species of judgments as just defined. 1 Kent, Comm. 316; Weston v. Charleston, 2 Pet. 494, 7 L. Ed. 481; Forgay v. Conrad, 6 How. 201, 209, 12 L. Ed. 404. A judgment which is not final is called "interlocutory;" that is, an interlocutory judgment is one which determines some preliminary or subordinate point or plea, or settles some step, question, or default arising in the progress of the cause, but does not adjudicate the ultimate rights of the parties, or finally put the case out of court. Thus, a judgment or order passed upon any provisional or accessory claim or contention is, in general, merely interlocutory, although it may finally dispose of that particular matter. 1 Black, Judgm. § 21; Hartford Fire Ins. Co. v. McDonald, 177 Ky. 838, 198 S. W. 225, 226; Frank P. Miller Paper Co. v. Keystone Coal & Coke Co., 275 Pa. 40, 118 A. 565, 566; Kinney v. Tri-State Telephone Co. (Tex. Com. App.) 222 S. W. 227, 230.

2. Judgments of *quod recuperet, respondeat ouster,* and *quod computet* (see Definitions, infra). When an issue in *fact,* or an issue in *law* arising on a peremptory plea, is determined for the plaintiff, the judgment is "that the plaintiff do recover," etc., which is called a judgment *quod recuperet*; Steph. Pl 126. When the issue in law arises on a dilatory plea, and is determined for the plaintiff, the judgment is only that the defendant "do answer over," called a judgment of *respondeat ouster.* In an action of *account,* judgment for the plaintiff is that the defendant "do account," *quod computet.* Of these, the last two, *quod computet* and *quod respondeat ouster,* are interlocutory only; the first, *quod recuperet,* is either final or interlocutory, according as the *quantum* of damages is or is not ascertained at the rendition of the judgment.

3. Judgment *in error* (see Definitions, infra), is either in affirmance of the former judgment; in recall of it for error in fact; in reversal of it for error in law; that the plaintiff be barred of his writ of error, where a plea of release of errors or of the statute of limitations is found for the defendant; or that there be a *venire facias de novo,* which is an award of a new trial.

With regard to the jurisdiction in which they are rendered, judgments are either *domestic* or *foreign* (see Definitions, infra).

Judgments, considered with respect to the method of obtaining them, may be thus classified.

1. When the result is obtained by the trial of an issue of fact. Judgments upon facts found are the following: Judgment of *nul tiel record* (*q. v.*) occurs when some pleading denies the existence of a record and issue is joined thereon; the record being produced is compared by the court with the statement in the pleading which alleges it; and if they correspond, the party asserting its existence obtains judgment; if they do not correspond, the other party obtains judgment of *nul tiel record* (no such record).

Judgment upon *verdict* (*q. v.*) is the most usual of the judgments upon facts found, and is for the party obtaining the verdict.

Judgment *non obstante veredicto* originally, at common law, was a judgment entered for plaintiff "notwithstanding the verdict" for defendant; which could be done only, after verdict and before judgment, where it appeared that defendant's plea confessed the cause of action and set up matters in avoidance which, although verified by the verdict, were insufficient to constitute a defense or bar to the action. But either by statutory enactment or because of relaxation of the early common-law rule, the generally prevailing rule now is that either plaintiff or defendant may have a judgment *non obstante veredicto* in proper cases. 33 C. J. 1178, § 112.

A judgment of *repleader* is given when issue is joined on an immaterial point, or one on which the court cannot give a judgment which will determine the right. On the award of a repleader, the parties must recommence their pleadings at the point where the immaterial issue originated. This judgment is interlocutory, *quod partes replacitent.*

2. When the facts are admitted by the parties, leaving only issues of law to be determined, which judgments are as follows:

Judgment upon a *demurrer* against the party demurring concludes him, because by demurring, a party admits the facts alleged in the pleadings of his adversary, and relies on their insufficiency in law. See Demurrer.

Judgment on a *case stated.* It sometimes happens that though the adverse parties are agreed as to the facts, and only differ as to the law arising out of them, still these facts do not so clearly appear on the pleadings as to enable them to obtain the opinion of the court by way of *demurrer*; for on demurrer the court can look at nothing whatever except the pleadings. In such circumstances the statute 3 & 4 Will. IV. c. 42, § 25, which has been imitated in most of the states, allows them after issue joined, and on obtaining the consent of a single judge, to state the facts in a *special case* for the opinion of the court, and agree that a judgment shall be entered for the plaintiff or defendant by *confession* or *nolle prosequi* immediately after the decision of the case; and judgment is entered accordingly, called judgment on a case stated.

Judgment *on a general verdict subject to a special case* and judgment *on a special verdict.* Sometimes *at the trial* the parties find that they agree on the facts, and the only question is one of law. In such case a verdict *pro forma* is taken, which is a species of admission by the parties, and is *general,* where the jury find for the plaintiff generally, but subject to the opinion of the court on a *special case,* or *special,* where they state the facts as they find them, concluding that the opinion of the court shall decide in whose favor the verdict shall be, and that they assess the damages accordingly. The judgments in these cases are called respectively, judgment *on a general verdict subject to a special case,* and judgment *on a special verdict.* See Case Stated; Point Reserved; Verdict.

3. Besides these, a judgment may be based upon the admissions or confessions of one only of the parties.

Such judgments when for defendant upon the admissions of the plaintiff are:

Judgment of *nolle prosequi,* where, after appearance and before judgment, the plaintiff says he "will not further prosecute his suit." Steph. Pl., Andr. Ed. § 97.

Judgment of *retraxit* is one where, after appearance and before judgment, the plaintiff voluntarily enters upon the record that he "withdraws his suit," whereupon judgment is rendered against him. The difference between a *retraxit* and a *nolle prosequi* is that a *retraxit* is a bar to any future action for the same cause; while a *nolle prosequi* is not, unless made after judgment. Similarly, a *retraxit* differs from a *nonsuit.*

A plaintiff sometimes, when he finds he has misconceived his action, obtains leave from the court to *discontinue,* on which there is a judgment against him and he has to pay costs; but he may commence a new action for the same cause.

A *stet processus* is entered where it is agreed by leave of the court that all further proceedings shall be stayed; though in form a judgment for the defendant, it is generally, like discontinuance, in point of fact for the benefit of the plaintiff, and entered on his application, as, for instance, when the defendant has become insolvent. It does not carry costs.

Judgments for the plaintiff upon facts admitted by the defendant are:

Judgment by *cognovit actionem, cognovit* or *confession,* where, instead of entering a plea, the defendant chooses to acknowledge the rightfulness of the plaintiff's action.

Judgment by confession *relicta verificatione* is rendered where, after pleading and before trial, he both confesses the plaintiff's cause of action to be just and true and withdraws or abandons his plea or other allegations. Upon this, judgment is entered against him without proceeding to trial.

Analogous to this is the judgment confessed by *warrant of attorney:* this is an authority given by the debtor to an attorney named by the creditor, empowering him to confess judgment either by *cognovit actionem, nil dicit,* or *non sum informatus.* This differs from a *cognovit* in that an action must be commenced before a *cognovit* can be given. but not before the execution of a warrant of attorney.

4. A judgment may be rendered on the default of a party. Such judgments against the defendant are: Judgment *by default;* judgment by *non sum informatus;* judgment *nil dicit* (See Definitions, infra).

Judgments rendered on plaintiff's default are: Judgment of *non pros.* (from *non prosequitur)* and judgment of *nonsuit* (from *non sequitur,* or *ne suit pas)* (See Definitions, infra).

Nature, Form and Effect

The various forms of judgment are designated by the following terms:

An *alternative judgment* is one that by its terms might be satisfied by doing either of several acts at the election of the party or parties against whom the judgment is rendered and from whom performance is by the judgment required. Henderson v. Arkansas, 71 Okl. 253, 176 P. 751, 754.

Judgment of *assets in futuro,* is one against an executor or heir, who holds at the time no property on which it can operate. See judgment *quando accidcrint,* infra.

Judgment of *cassetur breve* or *billa* (that

the writ or bill be quashed) is a judgment rendered in favor of a party pleading in abatement to a writ or action. Steph. Pl. 130, 131.

A *conditional* judgment is one whose force depends upon the performance of certain acts to be done in the future by one of the parties; as, one which may become of no effect if the defendant appears and pleads according to its terms, or one which orders the sale of mortgaged property in a foreclosure proceeding unless the mortgagor shall pay the amount decreed within the time limited. Mahoney v. Loan Ass'n (C. C.) 70 Fed. 513; Simmons v. Jones, 118 N. C. 472, 24 S. E. 114.

Judgment by *confession* is where a defendant gives the plaintiff a *cognovit* or written confession of the action (or "confession of judgment," as it is frequently called) by virtue of which the plaintiff enters judgment.

Consent judgment. One entered upon the consent of the parties and in pursuance of their agreement as to what the terms of the judgment shall be. Henry v. Hilliard, 120 N. C. 479, 27 S. E. 130; Karnes v. Black, 185 Ky. 410, 215 S. W. 191, 193. Consent judgments are, in effect, merely contracts acknowledged in open court and ordered to be recorded, but as such they bind the parties as fully as do other judgments. Prince v. Frost-Johnson Lumber Co. (Tex. Civ. App.) 250 S. W. 785, 789; Belcher v. Cobb, 169 N. C. 689, 86 S. E. 600, 602; Keach v. Keach, 217 Ky. 723, 290 S. W. 708, 711.

Contradictory judgment is a judgment which has been given after the parties have been heard, either in support of their claims or in their defense. Cox's Ex'rs v. Thomas, 11 La. 366. It is used in Louisiana to distinguish such judgments from those rendered by default.

Judgment *de melioribus damnis* (of, or for, the better damages). Where, in an action against several persons for a joint tort, the jury by mistake sever the damages by giving heavier damages against one defendant than against the others, the plaintiff may cure the defect by taking judgment for the greater damages (*de melioribus damnis*) against that defendant, and entering a *nolle prosequi* (*q. v.*) against the others. Sweet.

Judgment by *default* is a judgment rendered in consequence of the non-appearance of the defendant. Beard v. Sovereign Lodge, W. O. W., 184 N. C. 154, 113 S. E. 661; In re Smith, 38 Idaho, 746, 225 P. 495, 496; Brame v. Nolen, 139 Va. 413, 124 S. E. 299, 301. The term is also applied to judgments entered under statutes or rules of court, for want of affidavit of defense, plea, answer, and the like, or for failure to take some required step in the cause.

A *dormant* judgment is one which has not been satisfied or extinguished by lapse of time, but which has remained so long unexecuted that execution cannot now be issued upon it without first reviving the judgment. Draper v. Nixon, 93 Ala. 436, 8 So. 489. General Electric Co. v. Hurd (C. C.) 171 F. 984; Burlington State Bank v. Marlin Nat. Bank (Tex. Civ. App.) 207 S. W. 954, 956. Or one which has lost its lien on land from the failure to issue execution on it or take other steps to enforce it within the time limited by statute. 1 Black, Judgm. (2d Ed.) § 462.

Judgment of *dismissal.* See the title Dismissal.

Domestic judgment. A judgment is *domestic* in the courts of the same state or country where it was originally rendered; in other states or countries it is called *foreign.* The federal court sitting for the state is a domestic court, and its judgments within the scope of its jurisdiction are domestic judgments. Louisville & N. R. Co. v. Tally, 203 Ala. 370, 83 So. 114, 117. See *foreign judgment,* infra.

Judgment in *error* is a judgment rendered by a court of error on a record sent up from an inferior court.

Final judgment is one which puts an end to a suit.

A *foreign judgment* is one rendered by the courts of a state or country politically and judicially distinct from that where the judgment or its effect is brought in question. One pronounced by a tribunal of a foreign country, or of a sister state. Karns v. Kunkle, 2 Minn. 313 (Gil. 268); Gulick v. Loder, 13 N. J. Law, 68, 23 Am. Dec. 711; Grover & B. Sewing Mach. Co. v. Radcliffe, 137 U. S. 287, 11 S. Ct. 92, 34 L. Ed. 670.

Interlocutory judgment is one given in the progress of a cause upon some plea, proceeding, or default which is only intermediate and does not finally determine or complete the suit. 3 Bl. Comm. 396.

Judgment on the *merits* is one rendered after argument and investigation, and when it is determined which party is in the right, as distinguished from a judgment rendered upon some preliminary or merely technical point, or by default and without trial.

Judgment of *nil capiat per breve* or *per billam* (that he take nothing by his writ, or by his bill) is a judgment in favor of the defendant upon an issue raised upon a declaration or peremptory plea.

Judgment by *nil dicit* is one rendered for plaintiff when defendant "says nothing;" that is, when he neglects to plead to plaintiff's declaration within the proper time. Judgment taken against party who withdraws his answer is *judgment nihil dicit,* which amounts to confession of cause of action stated, and carries with it, more strongly than judgment by default, admission of justice of plaintiff's case. Howe v. Central State Bank of Coleman (Tex. Civ. App.) 297 S. W. 692, 694. Judgment rendered on plea of guilty is not "judgment nil dicit," which is substantially identical with default judgment. Stevens v. State, 100 Vt. 214, 136 A. 387.

Judgment *nisi.* At common law, this was a judgment entered on the return of the *nisi prius* record, which, according to the terms of the *postea* indorsed thereon was to become absolute *unless* otherwise ordered by the court

within the first four days of the next succeeding term. See U. S. v. Winstead (D. C.) 12 Fed. 51; Young v. McPherson, 3 N. J. Law, 897.

Judgment of *nolle prosequi* is one entered against plaintiff when, after appearance and before judgment, he declares that he will not further prosecute his suit.

Judgment *non obstante veredicto* in its broadest sense is a judgment rendered in favor of one party notwithstanding the finding of a verdict in favor of the other party, 33 C. J. 1177, § 111. See Classification, supra.

Judgment of *non pros.* (*non prosequitur* [he does not follow up, or pursue]) is one given against the plaintiff for a neglect to take any of those steps which it is incumbent on him to take in due time.

Judgment by *non sum informatus* (I am not informed) is one which is rendered when, instead of entering a plea, the defendant's attorney says he is not informed of any answer to be given to the action. Steph. Pl. 130.

Judgment *nunc pro tunc*, is one entered on a day subsequent to the time at which it should have been entered, as of the latter date. See Nunc pro Tunc.

Judgment of *nonsuit* is of two kinds,—*voluntary* and *involuntary*. When plaintiff abandons his case, and consents that judgment go against him for costs, it is *voluntary*. But when he, being called, neglects to appear, or when he has given no evidence on which a jury could find a verdict, it is *involuntary*. Freem. Judgm. § 6.

Judgment *pro retorno habendo* is a judgment that the party have a return of the goods.

Judgment *quando acciderint* (when they shall come in). If on the plea of *plene administravit* in an action against an executor or administrator, or on the plea of *riens per descent* in an action against an heir, the plaintiff, instead of taking issue on the plea, take judgment of assets *quando acciderint*, in this case, if assets afterwards come to the hands of the executor or heir, the plaintiff must first sue out a *scire facias*, before he can have execution. If, upon this *scire facias*, assets be found for part, the plaintiff may have judgment to recover so much immediately, and the residue of the assets *in futuro*. 1 Sid. 448.

Judgment *quod computet* is a judgment in an action of account-render that the defendant do account.

Judgment *quod partitio fiat* is the interlocutory judgment in a writ of partition, that partition be made.

Judgment *quod partes replacitent* (that the parties do replead) is a judgment for repleader, and is given if an issue is formed on so immaterial a point that the court cannot know for whom to give judgment. The parties must then reconstruct their pleadings.

Judgment *quod recuperet* is a judgment in favor of the plaintiff (that he do recover), rendered when he has prevailed upon an issue in fact or an issue in law other than one arising on a dilatory plea. Steph. Pl. 126.

Judgment of *respondeat ouster* is a judgment given against the defendant, requiring him to "answer over," after he has failed to establish a dilatory plea upon which an issue in law has been raised.

Judgment of *retraxit* is one rendered where, after appearance and before verdict, the plaintiff voluntarily goes into court and enters on the record that he "withdraws his suit." It is an open, voluntary renunciation of his claim in court, and by it he forever loses his action.

A *stet processus* is a judgment entered where it is agreed by leave of court that all further proceedings shall be stayed.

Other Compound Terms

—Deficiency judgment. See Deficiency.

—Judgment-book. A book required to be kept by the clerk, among the records of the court, for the entry of judgments. In re Weber, 4 N. D. 119, 59 N. W. 523, 28 L. R. A. 621.

—Judgment creditor. One who is entitled to enforce a judgment by execution, (*q. v.*). The owner of an unsatisfied judgment.

—Judgment debt. A debt, whether on simple contract or by specialty, for the recovery of which judgment has been entered up, either upon a *cognovit* or upon a warrant of attorney or as the result of a successful action. Brown.

—Judgment debtor. A person against whom judgment has been recovered, and which remains unsatisfied. The term has been construed to include a judgment debtor's successors in interest, Bateman v. Kellogg, 59 Cal. App. 464, 211 P. 46, 51; but see, contra, Northwest Trust & Safe Deposit Co. v. Butcher, 98 Wash. 158, 167 P. 46, 47.

—Judgment debtor summons. Under the English bankruptcy act, 1861, §§ 76–85, these summonses might be issued against both traders and non-traders, and, in default of payment of, or security or agreed composition for, the debt, the debtors might be adjudicated bankrupt. This act was repealed by 32 & 33 Vict. c. 83, § 20. The 32 & 33 Vict. c. 71, however, (bankruptcy act, 1869,) provides (section 7) for the granting of a "debtor's summons," at the instance of creditors, and, in the event of failure to pay or compound, a petition for adjudication may be presented, unless in the events provided for by that section. Wharton.

—Judgment docket. A list or docket of the judgments entered in a given court, methodically kept by the clerk or other proper officer, open to public inspection, and intended to afford official notice to interested parties of the existence or lien of judgments.

—Judgment lien. A lien binding the real estate of a judgment debtor, in favor of the

holder of the judgment, and giving the latter a right to levy on the land for the satisfaction of his judgment to the exclusion of other adverse interests subsequent to the judgment. Ashton v. Slater, 19 Minn. 351 (Gil. 300); Shirk v. Thomas, 121 Ind. 147, 22 N. E. 976, 16 Am. St. Rep. 381.

—Judgment note. A promissory note, embodying an authorization to any attorney, or to a designated attorney, or to the holder, or the clerk of the court, to enter an appearance for the maker and confess a judgment against him for a sum therein named, upon default of payment of the note. Sweeney v. Thickstun, 77 Pa. 131.

—Judgment paper. In English practice. A sheet of paper containing an *incipitur* of the pleadings in an action at law, upon which final judgment is signed by the master. 2 Tidd, Pr. 930.

—Judgment of his peers. A trial by a jury of twelve men according to the course of the common law. Fetter v. Wilt, 46 Pa. 460; State v. Simons, 61 Kan. 752, 60 P. 1052; Newland v. Marsh, 19 Ill. 382.

—Judgment record. In English practice. A parchment roll, on which are transcribed the whole proceedings in the cause, deposited and filed of record in the treasury of the court, after signing of judgment. 3 Steph. Comm. 632. In American practice, the record is signed, filed, and docketed by the clerk.

—Judgment recovered. A plea by a defendant that the plaintiff has already recovered that which he seeks to obtain by his action. This was formerly a species of sham plea, often put in for the purpose of delaying a plaintiff's action.

—Judgment roll. In English practice. A roll of parchment containing the entries of the proceedings in an action at law to the entry of judgment inclusive, and which is filed in the treasury of the court. 1 Arch. Pr. K. B. 227, 228; 2 Tidd, Pr. 931; Pettis v. Johnston, 78 Okl. 277, 190 P. 681, 700. A record made of the issue roll (*q. v.*), which, after final judgment has been given in the cause, assumes this name. Steph. Pl. Andr. ed. § 97; 3 Chitty, Stat. 514; Freem. Judg. § 75. The Judicature Act of 1875 requires every judgment to be entered in a book by the proper officer. It has been abolished, as such, in New Jersey; Jennings v. Philadelphia & R. Co. (C. C.) 23 F. 569, 571. There is said to be hopeless confusion in the cases as to what constitutes the judgment roll. All the cases agree that the complaint, the summons and, most of them, the return on the summons, the affidavit for publication in case of constructive service, and papers of that sort are included therein; Terry v. Gibson, 23 Colo. App. 273, 128 P. 1127, 1128, citing many cases, and also 1 Gr. Evid. 511, and Freem. Judg. § 78; Crouch v. H. L. Miller & Co., 169 Cal. 341, 146 P. 880; In re Broome's Estate, 169 Cal. 604, 147 P. 270, 271; Powell v. Mohr, 68 Cal. App. 639, 230 P. 27, 29; State Bank of Dakoma v. Weaber, 125 Okl. 186, 256 P. 50, 52; Inashima v. Wardall, 128 Wash. 617, 224 P. 379, 382; Madsen v. Hodson, 69 Utah, 527, 256 P. 792, 793. See the title Roll.

—Junior judgment. One which was rendered or entered after the rendition or entry of another judgment, on a different claim, against the same defendant.

—Money judgment. One which adjudges the payment of a sum of money, as distinguished from one directing an act to be done or property to be restored or transferred. Fuller v. Aylesworth, 75 F. 694, 21 C. C. A. 505; Pendleton v. Cline, 85 Cal. 142, 24 P. 659.

—Personal judgment. One imposing on the defendant a personal liability to pay it, and which may therefore be satisfied out of any of his property which is within the reach of process, as distinguished from one which may be satisfied only out of a particular fund or the proceeds of particular property. Thus, in a mortgage foreclosure suit, there may be a personal judgment against the mortgagor for any deficiency that may remain after the sale of the mortgaged premises. See Bardwell v. Collins, 44 Minn. 97, 46 N. W. 315, 9 L. R. A. 152, 20 Am. St. Rep. 547.

—Pocket judgment. A statute-merchant which was enforceable at any time after non-payment on the day assigned, without further proceedings. Wharton.

JUDGMENT IN PERSONAM OR INTER PARTES. A judgment against a particular person, as distinguished from a judgment against a thing or a right or *status*. Judgments of the former class, though conclusive even against strangers, as to the fact of their rendition and the resultant legal consequences, are not binding as to the issues involved, except upon the parties and their privies, while judgments of the latter class are conclusive upon all the world. City of Huntsville v. Goodenrath, 13 Ala. App. 579, 68 So. 676, 680. See the title Judgment In Rem.

Decrees of divorce of other states recovered upon service by publication are not judgments in personam. Ball v. Cross, 106 Misc. 184, 174 N. Y. S. 259, 260.

JUDGMENT IN REM. An adjudication, pronounced upon the *status* of some particular subject-matter, by a tribunal having competent authority for that purpose. It differs from a judgment *in personam*, in this: that the latter judgment is in form, as well as substance, between the parties claiming the right; and that it is so *inter partes* appears by the record itself. It is binding only upon the parties appearing to be such by the record, and those claiming by them. A judgment *in*

rem is founded on a proceeding instituted, not against the person, as such, but against or upon the thing or subject-matter itself, whose state or condition is to be determined. It is a proceeding to determine the state or condition of the thing itself; and the judgment is a solemn declaration upon the *status* of the thing, and it *ipso facto* renders it what it declares it to be. Woodruff v. Taylor, 20 Vt. 73. And see Martin v. King, 72 Ala. 360; Lord v. Chadbourne, 42 Me. 429, 66 Am. Dec. 290; Hine v. Hussey, 45 Ala. 496; Cross v. Armstrong, 44 Ohio St. 613, 10 N. E. 160; City of Huntsville v. Goodenrath, 13 Ala. App. 579, 68 So. 676, 680; Wilson v. Smart, 324 Ill. 276, 155 N. E. 288, 291.

Various definitions have been given of a judgment *in rem*, but all are criticised as either incomplete or comprehending too much. It is generally said to be a judgment declaratory of the *status* of some subject-matter, whether this be a person or a thing. Thus, the probate of a will fixes the *status* of the document as a will. The personal rights and interests which follow are mere incidental results of the *status* or character of the paper, and do not appear on the face of the judgment. So, a decree establishing or dissolving a marriage is a judgment *in rem*, because it fixes the *status* of the person. A judgment of forfeiture, by the proper tribunal, against specific articles or goods, for a violation of the revenue laws, is a judgment *in rem*. But it is objected that the customary definition does not fit such a case, because there is no fixing of the *status* of anything, the whole effect being a seizure, whatever the thing may be. In the foregoing instances, and many others, the judgment is conclusive against all the world, without reference to actual presence or participation in the proceedings. If the expression "strictly *in rem*" may be applied to any class of cases, it should be confined to such as these. "A very able writer says: 'The distinguishnig characteristic of judgments *in rem* is that, wherever their obligation is recognized and enforced as against *any* person, it is equally recognized and enforced as against *all* persons.' It seems to us that the true definition of a 'judgment *in rem*' is 'an adjudication' against some person or thing, or upon the *status* of some subject-matter; which, wherever and whenever binding upon *any* person, is equally binding upon *all* persons." Bartero v. Real Estate Savings Bank, 10 Mo. App. 78.

An adjudication in bankruptcy is a "judgment in rem," binding against all the world, in so far as it determines the defendant to be a bankrupt and his property subject to administration in bankruptcy. Fidelity & Deposit Co. of Maryland v. Queens County Trust Co., 226 N. Y. 225, 133 N. E. 370, 372.

In Pennoyer v. Neff, the court said: "It is true that, in a strict sense, a proceeding *in rem* is one taken directly against property, and has for its object the disposition of property, without reference to the title of individual claimants; but, in a larger and more general sense, the terms are applied to actions between parties, where the direct object is to reach and dispose of property owned by them, or of some interest therein. Such are cases commenced by attachment against the property of debtors, or instituted to partition real estate, foreclose a mortgage, or enforce a lien. So far as they affect property in this state, they are substantially proceedings *in rem* in the broader sense which we have mentioned." 95 U. S. 734, 24 L. Ed. 565. A judgment against a railway company in favor of an assignee of claims for labor performed for a subcontractor, which forecloses a statutory lien on the property of the company for debt, and orders a sale of the property, cannot be construed as a judgment *in personam*. Austin & N. W. R. Co. v. Rucker, 59 Tex. 587.

Judicandum est legibus, non exemplis. Judgment is to be given according to the laws, not according to examples or precedents. 4 Coke, 33*b*; 4 Bl. Comm. 405.

JUDICARE. Lat. In the civil and old English law. To judge; to decide or determine judicially; to give judgment or sentence.

JUDICATIO. Lat. In the civil law. Judging; the pronouncing of sentence after hearing a cause. Hallifax, Civil Law, b. 3, c. 8, no. 7.

JUDICATORES TERRARUM. Lat. Certain tenants in the county palatine of Chester, who were bound by their tenures to perform judicial functions. In case of an erroneous judgment being given by them, the party aggrieved might obtain a writ of error out of Chancery, directing them to reform it. They then had a month to consider of the matter. If they declined to reform their judgment, the matter came on writ of error before the king's bench; and if the court of king's bench held the judgment to be erroneous they forfeited £100 to the crown by custom. Jenk. Cent. 71.

JUDICATURE. The state or profession of those officers who are employed in administering justice; the judiciary.

A judicatory, tribunal, or court of justice.

Jurisdiction; the right of judicial action; the scope or extent of jurisdiction.

JUDICATURE ACTS (ENGLAND). The acts under which the present system of courts in England was organized and is continued. The statutes of 36 & 37 Vict. c. 66, and 38 & 39 Vict. c. 77, which went into force November 1, 1875, with amendments in 1877, 40 & 41 Vict. c. 9; 1879, 42 & 43 Vict. c. 78; and 1881, 44 & 45 Vict. c. 68,—made most important changes in the organization of, and methods of procedure in, the superior courts of England, consolidating them together so as to constitute one supreme court of judicature, consisting of two divisions,—her majesty's high court of justice, having chiefly original jurisdiction; and her majesty's court of appeal, whose jurisdiction is chiefly appellate.

JUDICATURE ACTS (IRELAND). The act of 40 & 41 Vict. c. 57, which went into operation Jan. 1, 1878, established a supreme court of judicature in Ireland, under which acts and subsequent ones a system essentially similar in its constitution to that in England is in force.

JUDICES. Lat. Judges. See Judex.

Judices non tenentur exprimere causam sententiæ suæ. Judges are not bound to explain the reason of their sentence. Jenk. Cent. 75.

JUDICES ORDINARII. Lat. Plural of *judex ordinarius.* See Judex.

JUDICES PEDANEI. Lat. Plural of *judex pedaneus.* See Judex.

JUDICES SELECTI. Lat. Plural of *judex selectus.* See Judex.

Judici officium suum excedenti non paretur. A judge exceeding his office (or jurisdiction) is not to be obeyed. Jenk. Cent. p. 139, case 84. Said of void judgments.

Judici satis pœna est, quod Deum habet ultorem. It is punishment enough for a judge that he has God as his avenger. 1 Leon. 295.

JUDICIA; JUDICIA PUBLICA. Lat. In Roman law. Judicial proceedings; trials. *Judicia publica,* criminal trials. Dig. 48, 1. See, also, Judicium.

Judicia in curia regis non adnihilentur, sed stent in robore suo quousque per errorem aut attinctum adnullentur. Judgments in the king's court are not to be annihilated, but to remain in force until annulled by error or attaint. 2 Inst. 539.

Judicia in deliberationibus crebro maturescunt, in accelerato processu nunquam. Judgments frequently become matured by deliberations, never by hurried process or precipitation. 3 Inst. 210.

Judicia posteriora sunt in lege fortiora. The later decisions are the stronger in law. 8 Coke, 97.

Judicia sunt tanquam juris dicta, et pro veritate accipiuntur. Judgments are, as it were, the sayings of the law, and are received as truth. 2 Inst. 537.

JUDICIAL. Belonging to the office of a judge; as judicial authority.

Relating to or connected with the administration of justice; as a judicial officer.

Having the character of judgment or formal legal procedure; as a judicial act.

Proceeding from a court of justice; as a judicial writ, a judicial determination.

Involving the exercise of judgment or discretion; as distinguished from *ministerial.*

—Judicial act. An act performed by a court or magistrate touching the rights of parties or property brought before it or him by voluntary appearance, or by the prior action of ministerial officers; in short by ministerial acts. Flournoy v. Jeffersonville, 17 Ind. 173, 79 Am. Dec. 468; Union Pac. R. Co. v. U. S., 99 U. S. 700, 761, 25 L. Ed. 496; United States v. Ward (C. C. A.) 257 F. 372, 377; Board of Com'rs of Atoka County v. Cypert, 65 Okl. 168, 166 P. 195, 198. An act requiring the exercise of some judicial discretion, as distinguished from a ministerial act, which requires none. Ex parte Kellogg, 6 Vt. 510; Mills v. Brooklyn, 32 N. Y. 497; Reclamation Dist. v. Hamilton, 112 Cal. 603, 44 Pac. 1074; Perry v. Tynen, 22 Barb. (N. Y.) 140. A judicial act involves the exercise of judgment or discretion. But where the law enjoins a duty, prescribing and defining the time, manner, and occasion of its performance, with such certainty that nothing remains for judgment or discretion, the duty and act is each ministerial. In re Courthouse of Okmulgee County, 58 Okl. 683, 161 P. 200, 201; Boynton v. Brown (Tex. Civ. App.) 164 S. W. 893, 895. The act of an administrative or ministerial officer does not become judicial simply because it requires some discretion and judgment, but becomes judicial only when there is opportunity to be heard, and the production and weighing of evidence and a decision thereon. People ex rel. Argus Co. v. Hugo, 101 Misc. 48, 168 N. Y. S. 25, 27; Sweeney v. Young, 82 N. H. 159, 131 A. 155, 157, 42 A. L. R. 757. The distinction between a judicial and a legislative act is that the one determines what the law is, and what the rights of parties are, with reference to transactions already had; the other provides what the law shall be in future cases arising under it. Williams v. City of Norman, 85 Okl. 230, 205 P. 144, 149; State v. Ramirez, 34 Idaho, 623, 203 P. 279, 282, 29 A. L. R. 297.

—Judicial action. Action of a court upon a cause, by hearing it, and determining what shall be adjudged or decreed between the parties, and with which is the right of the case. Rhode Island v. Massachusetts, 12 Pet. 718, 9 L. Ed. 1233; Kerosene Lamp Heater Co. v. Monitor Oil Stove Co., 41 Ohio St. 293. When an inferior officer or board is charged with an administrative act, the performance of which depends upon and requires the existence or ascertainment of facts, the investigation and determination of such facts is so-called judicial action. Austin v. Eddy, 41 S. D. 640, 172 N. W. 517, 518.

—Judicial admission. See Admissions.

—Judicial authority. The power and authority appertaining to the office of a judge; jurisdiction; the official right to hear and determine questions in controversy.

—Judicial business. Such as involves the exercise of judicial power, or the application of the mind and authority of a court to some contested matter, or the conduct of judicial proceedings, as distinguished from such ministerial and other acts, incident to the progress of a cause, as may be performed by the parties, counsel, or officers of the court without application to the court or judge. See Heisen v. Smith, 138 Cal. 216, 71 Pac. 180, 94 Am. St. Rep. 39; Merchants' Nat. Bank v. Jaffray, 36 Neb. 218, 54 N. W. 258, 19 L. R. A. 316; State v. California Min. Co., 13 Nev. 214.

—**Judicial circuit.** As used in a state constitution, a term referring to the subdivisions of the state to each of which one judge shall be assigned to exercise therein the judicial power conferred by the constitution upon circuit courts. State v. Butler, 70 Fla. 102, 69 So. 771, 779.

—**Judicial committee of the privy council.** In English law. A tribunal established in 1833, composed of members of the privy council, being judges or retired judges, which acts as the king's adviser in matters of law referred to it, and exercises a certain appellate jurisdiction, though its power in this respect was curtailed by the judicature act of 1873. It consists of the Lord Chancellor, the six Lords of Appeal, if Privy Councillors, and such other members of the Privy Council as have held any high judicial office in the United Kingdom, India, or the colonies. It is the court of final appeal from the ecclesiastical courts, from the courts of India, the colonies, dominions, etc., the Channel Islands and the Isle of Man, administering all the different systems of law of the countries under its appellate jurisdiction, and exercising a notable influence on the tenor and course of law in some of those jurisdictions, especially Indian law.

—**Judicial confession.** In the law of evidence. A confession of guilt, made by a prisoner before a magistrate, or in court, in the due course of legal proceedings. 1 Greenl. Ev. § 216; White v. State, 49 Ala. 348; U. S. v. Williams, 28 Fed. Cas. 643; State v. Lamb, 28 Mo. 218; Speer v. State, 4 Tex. App. 479. See the title Confession. For *extrajudicial* confession, see, also, the title Extrajudicial.

—**Judicial convention.** An agreement entered into in consequence of an order of court; as, for example, entering into a bond on taking out a writ of sequestration. Penniman v. Barrymore, 6 Mart. N. S. (La.) 494.

—**Judicial decision.** An opinion or determination of the judges in causes before them, particularly in appellate courts. Le Blanc v. Illinois Cent. R. Co., 73 Miss. 463, 19 South. 211.

—**Judicial dictum.** A dictum made by a court or judge in the course of a judicial decision or opinion. Com. v. Paine, 207 Pa. 45, 56 Atl. 317. See Dictum.

—**Judicial district.** One of the circuits or precincts into which a state is commonly divided for judicial purposes, a court of general original jurisdiction being usually provided in each of such districts, and the boundaries of the district marking the territorial limits of its authority; or the district may include two or more counties, having separate and independent county courts, but in that case they are presided over by the same judge. See Ex parte Gardner, 22 Nev. 280, 39 Pac. 570; Lindsley v. Coahoma County Sup'rs, 69 Miss. 815, 11 South. 336; Com. v. Hoar, 121 Mass. 377; Consolidated Flour Mills Co. v. Muegge, 127 Okl. 295, 260 P. 745, 752.

—**Judicial duty.** Within the meaning of the Missouri Constitution, such a duty as legitimately pertains to an officer in the department designated by the Constitution as judicial. State v. Kelly, 27 N. M. 412, 202 P. 524, 529, 21 A. L. R. 156; State v. Hathaway, 115 Mo. 36, 21 S. W. 1081.

—**Judicial function.** The exercise of the judicial faculty or office. The capacity to act in the specific way which appertains to the judicial power, as one of the powers of government. The term is used to describe generally those modes of action which appertain to the judiciary as a department of organized government, and through and by means of which it accomplishes its purposes and exercises its peculiar powers. See State v. Kelly, 27 N. M. 412, 202 P. 524, 528, 21 A. L. R. 156; Suckow v. Board of Medical Examiners, 182 Cal. 247, 187 P. 965, 966; Lyon v. City of Payette, 38 Idaho, 705, 224 P. 793, 794; People v. Hersey, 69 Colo. 492, 196 P. 180, 181, 14 A. L. R. 631; State v. Railroad Com'rs of Florida, 79 Fla. 526, 84 So. 444, 445; Sauskelonis v. Herting, 89 Conn. 298, 94 A. 368, 369; Apartment & Hotel Financing Corporation v. Will, 69 Cal. App. 276, 231 P. 349, 350. While ordinarily a case or judicial controversy within the meaning of Const. art. 3, § 2, results in a judgment requiring award of process of execution to carry it into effect, such relief is not an indispensable adjunct to the exercise of the "judicial function." Fidelity Nat. Bank & Trust Co. of Kansas City v. Swope, 274 U. S. 123, 47 S. Ct. 511, 514, 71 L. Ed. 959.

—**Judicial legislation.** See *judge-made law* under the title Judge.

—**Judicial oath.** See the title Oath.

—**Judicial office.** A term used in 34 & 35 Vict. c. 91, to define qualifications of additional members of the judicial committee of the Privy Council. Judicial offices are those which relate to the administration of justice; Waldo v. Wallace, 12 Ind. 569; and which should be exercised by persons of sufficient skill and experience in the duties which appertain to them. A general term including courts of record and courts not of record. Buckley v. Holmes, 259 Pa. 176, 102 A. 497, 500.

—**Judicial officer.** A person in whom is vested authority to decide causes or exercise powers appropriate to a court. Settle v. Van Evrea, 49 N. Y. 284; People v. Wells, 2 Cal. 203; Reid v. Hood, 2 Nott & McC. (S. C.) 170, 10 Am. Dec. 582. A surrogate is a "judicial officer." In re Spingarn's Estate, 96 Misc. 141, 159 N. Y. S. 605, 608; Prendergast v. Cohalan, 101 Misc. 712, 166 N. Y. S. 263, 264. A work-

men's compensation commissioner has been held not to be a "judicial officer"; Appeal of Hotel Bond Co., 89 Conn. 143, 93 A. 245, 248; while a prosecuting attorney, invested with important discretionary power in a motion for a nolle prosequi, and whose removal the Constitution guards against as it does against the removal of a judge, has been held to be a "judicial officer," State v. Ellis, 184 Ind. 307, 112 N. E. 98, 100; but see, contra, as to a solicitor, State v. Crowder, 193 N. C. 130, 136 S. E. 337, 338. Notaries, in taking depositions, act judicially and as "judicial officers." Ex parte Noell (Mo. App.) 293 S. W. 488, 491.

—Judicial power. The authority vested in courts and judges, as distinguished from the executive and legislative power. Gilbert v. Priest, 65 Barb. (N. Y.) 448; In re Walker, 68 App. Div. 196, 74 N. Y. Supp. 94; State v. Denny, 118 Ind. 382, 21 N. E. 252, 4 L. R. A. 79; U. S. v. Kendall, 26 Fed. Cas. 753. The power of a court to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before it for decision. Miller, Const. U. S. 314; Stuart v. Norviel, 26 Ariz. 493, 266 P. 908, 909; Shea v. North-Butte Mining Co., 55 Mont. 522, 179 P. 499, 503; State v. Cox, 87 Ohio St. 313, 101 N. E. 135, 137. The power that adjudicates upon the rights of persons or property, and to that end declares, construes, and applies the law. In re Hunstiger, 130 Minn. 474, 153 N. W. 869, 870; Hutchins v. City of Des Moines, 157 N. W. 881; Stolle v. Mitchell, 309 Ill. 341, 141 N. E. 136, 137; People v. Hawkinson, 324 Ill. 285, 155 N. E. 318, 319; Mitchell v. Lowden, 288 Ill. 327, 123 N. E. 566, 572. The power to hear, consider, and determine controversies between rival litigants as to their personal or property rights, and must be regularly invoked at the instigation of one of the litigants. State v. Mohler, 98 Kan. 465, 158 P. 408, 410; Illinois Cent. R. Co. v. Dodd, 105 Miss. 23, 61 So. 743, 49 L. R. A. (N. S.) 565; Devine v. Brunswick-Balke-Collender Co., 270 Ill. 504, 110 N. E. 780, 782, Ann. Cas. 1917B, 887. A power involving exercise of judgment and discretion in determination of questions of right in specific cases affecting interests of person or property, as distinguished from ministerial power involving no discretion. Stanton v. State Tax Commission, 114 Ohio St. 658, 151 N. E. 760, 764; Ward v. Board of Com'rs of Okfuskee County, 114 Okl. 246, 246 P. 376, 378. It is the settled law in this country that the judicial power extends to and includes the determination of the constitutionality and validity of legislative acts in cases coming before the courts; Cohen v. Virginia, 6 Wheat. 264, 5 L. Ed. 257; Marbury v. Madison, 1 Cranch, 137, 2 L. Ed. 60; although the propriety of this conclusion is still sometimes challenged.

—Judicial proceeding. A general term for proceedings relating to, practiced in, or proceeding from, a court of justice; or the course prescribed to be taken in various cases for the determination of a controversy or for legal redress or relief. See Hereford v. People, 197 Ill. 222, 64 N. E. 310; Martin v. Simpkins, 20 Colo. 438, 38 Pac. 1092; Mullen v. Reed, 64 Conn. 240, 29 Atl. 478, 24 L. R. A. 664, 42 Am. St. Rep. 174; Aldrich v. Kinney, 4 Conn. 386, 10 Am. Dec. 151. A proceeding in a legally constituted court. Garrett v. State, 18 Ga. App. 360, 89 S. E. 380. A proceeding wherein there are parties, who have opportunity to be heard, and wherein the tribunal proceeds either to a determination of facts upon evidence or of law upon proved or conceded facts. Mitchel v. Cropsey, 177 App. Div. 663, 164 N. Y. S. 336, 339. Any proceeding for the purpose of obtaining such remedy as the law allows; and, when a court is authorized to hear and determine a question of fact or a mixed question of law or fact upon the evidence to be produced before it and to render a decision affecting the material rights of one or more persons, such proceeding is "judicial." Treloar v. Harris, 66 Ind. App. 59, 117 N. E. 975, 978.

—Judicial question. One proper for the determination of a court of justice, as distinguished from such questions as belong to the decision of the legislative or executive departments of government and with which the courts will not interfere, called "political" or "legislative" questions. See Patton v. Chattanooga, 108 Tenn. 197, 65 S. W. 414.

—Judicial remedy. Such as is administered by the courts of justice, or by judicial officers empowered for that purpose by the constitution and laws of the state. Code Civ. Proc. Cal. § 20; Code Civ. Proc. Mont. 1895, § 3469 (Rev. Codes 1921, § 8995).

—Judicial separation. A separation of man and wife by decree of court, less complete than an absolute divorce; otherwise called a "limited divorce."

—Judicial statistics. In English law. Statistics, published by authority, of the civil and criminal business of the United Kingdom, and matters appertaining thereto. Annual reports are published separately for England and Wales, for Ireland, and for Scotland.

—Quasi judicial. A term applied to the action, discretion, etc., of public administrative officers, who are required to investigate facts, or ascertain the existence of facts, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. See Bair v. Struck, 29 Mont. 45, 74 Pac. 69, 63 L. R. A. 481; Mitchell v. Clay County, 69 Neb. 779, 96 N. W. 678; De Weese v. Smith (C. C.) 97 Fed. 317; Oakman v. City of Eveleth, 163 Minn. 100, 203 N. W. 514, 517; Hoyt v. Hughes County, 32 S. D. 117, 142 N. W. 471, 473; State v. Ross, 31 Wyo. 500, 228 P. 636, 641; Ex parte Bentine,

181 Wis. 579, 196 N. W. 213, 215; Hipp v. Farrell, 169 N. C. 551, 86 S. E. 570, 573; Board of Com'rs of Atoka County v. Cypert, 65 Okl. 168, 166 P. 195, 198; McCollough v. Scott, 182 N. C. 865, 109 S. E. 789, 794; In re Courthouse of Okmulgee County, 58 Okl. 683, 161 P. 200, 201.

As to judicial "Day," "Deposit," "Discretion," "Documents," "Evidence," "Factor," "Mortgage," "Notice," "Process," "Sales," "Sequestration," and "Writs," see those titles.

JUDICIARY, *adj.* Pertaining or relating to the courts of justice, to the judicial department of government, or to the administration of justice.

JUDICIARY, *n.* That branch of government invested with the judicial power; the system of courts in a country; the body of judges; the bench.

JUDICIARY ACT. The name commonly given to the act of congress of September 24, 1789, (1 St. at Large, 73,) by which the system of federal courts was organized, and their powers and jurisdiction defined.

Judiciis posterioribus fides est adhibenda. Faith or credit is to be given to the later judgments. 13 Coke, 14.

JUDICIO SISTI. Lat. A caution, or security, given in Scotch courts for the defendant to abide judgment within the jurisdiction. Stim. Law Gloss.

Judicis est in pronuntiando sequi regulam, exceptione non probata. The judge in his decision ought to follow the rule, when the exception is not proved.

Judicis est judicare secundum allegata et probata. Dyer, 12. It is the duty of a judge to decide according to facts alleged and proved.

Judicis est jus dicere, non dare. It is the province of a judge to declare the law, not to give it. Lofft, Append. 42.

Judicis officium est opus diei in die suo perficere. It is the duty of a judge to finish the work of each day within that day. Dyer, 12.

Judicis officium est ut res, ita tempora rerum, quærere. It is the duty of a judge to inquire into the times of things, as well as into things themselves. Co. Litt. 171.

JUDICIUM. Lat. Judicial authority or jurisdiction; a court or tribunal; a judicial hearing or other proceeding; a verdict or judgment; a proceeding before a judex or judge. State v. Whitford, 54 Wis. 150, 11 N. W. 424.

Judicium a non suo judice datum nullius est momenti. 10 Coke, 70. A judgment given by one who is not the proper judge is of no force.

JUDICIUM CAPITALE. In old English law. Judgment of death; capital judgment. Fleta, lib. 1, c. 39, § 2. Called, also, "*judicium vitæ amissionis*," judgment of loss of life. Id. lib. 2, c. 1, § 5.

JUDICIUM DEI. In old English and European law. The judgment of God; otherwise called "*divinum judicium*," the "divine judgment." A term particularly applied to the ordeals by fire or hot iron and water, and also to the trials by the cross, the eucharist, and the corsned, and the *duellum* or trial by battle, (*q. v.*,) it being supposed that the interposition of heaven was directly manifest, in these cases, in behalf of the innocent. Spelman; Burrill.

Judicium est quasi juris dictum. Judgment is, as it were, a declaration of law.

Judicium non debet esse illusorium; suum effectum habere debet. A judgment ought not to be illusory; it ought to have its proper effect. 2 Inst. 341.

JUDICIUM PARIUM. In old English law. Judgment of the peers; judgment of one's peers; trial by jury. Magna Charta, c. 29.

Judicium redditur in invitum. Co. Litt. 248*b*. Judgment is given against one, whether he will or not.

Judicium (semper) pro veritate accipitur. A judgment is always taken for truth, [that is, as long as it stands in force it cannot be contradicted.] 2 Inst. 380; Co. Litt. 39*a*, 168*a*.

JUG. In old English law. A watery place. Domesday; Cowell.

JUGE. In French law. A judge.

JUGE DE PAIX. An inferior judicial functionary, appointed to decide summarily controversies of minor importance, especially such as turn mainly on questions of fact. He has also the functions of a police magistrate. Ferrière.

JUGE D'INSTRUCTION. See Instruction.

JUGERUM. An acre. Co. Litt. 5*b*. As much as a yoke (jugum) of oxen could plow in one day.

JUGULATOR. In old records. A cutthroat or murderer. Cowell.

JUGUM. Lat. In the civil law. A yoke; a measure of land; as much land as a yoke of oxen could plow in a day. Nov. 17, c. 8.

JUGUM TERRÆ. In old English law. A yoke of land; half a plow-land. Domesday; Co. Litt. 5*a*; Cowell.

JUICIO. In Spanish law. A trial or suit. White, New Recop. b. 3, tit. 4, c. 1.

JUICIO DE APEO. The decree of a competent tribunal directing the determining and marking the boundaries of lands or estates.

JUICIO DE CONCURSO DE ACREEDORES. The judgment granted for a debtor who has various creditors, or for such creditors, to the effect that their claims be satisfied according to their respective form and rank, when the debtor's estate is not sufficient to discharge them all in full. Escriche.

JUMENT. In old Scotch law. An ox used for tillage. 1 Pitc. Crim. Tr. pt. 2, p. 89.

JUMENTA. In the civil law. Beasts of burden; animals used for carrying burdens. This word did not include "oxen." Dig. 32, 65, 5.

JUMP BAIL. To abscond, withdraw, or secrete one's self, in violation of the obligation of a bail-bond. The expression is colloquial, and is applied only to the act of the principal.

JUNCARIA. In old English law. The soil where rushes grow. Co. Litt. 5*a*; Cowell.

Juncta juvant. United they aid. A portion of the maxim, *"Quæ non valeant singula juncta juvant,"* (*q. v.*,) frequently cited. 3 Man. & G. 99.

JUNGERE DUELLUM. In old English law. To join the *duellum;* to engage in the combat. Fleta, lib. 1, c. 21, § 10.

JUNIOR. Younger. This has been held to be no part of a man's name, but an addition by use, and a convenient distinction between a father and son of the same name. Cobb v. Lucas, 15 Pick. (Mass.) 9; People v. Collins, 7 Johns. (N. Y.) 552; Padgett v. Lawrence, 10 Paige (N. Y.) 177, 40 Am. Dec. 232; Prentiss v. Blake, 34 Vt. 460; Maxwell v. State, 65 So. 732, 734, 11 Ala. App. 53.

As to junior "Barrister," "Counsel," "Creditor," "Execution," "Judgment," and "Writ," see those titles.

JUNIOR RIGHT. A custom prevalent in some parts of England (also at some places on the continent) by which an estate descended to the youngest son in preference to his older brothers; the same as "Borough-English."

JUNIPERUS SABINA. In medical jurisprudence. This plant is commonly called "savin."

JUNK. Worn out and discarded material in general that may be turned to some use; especially old rope, chain, iron, copper, parts of machinery and bottles gathered or bought up by tradesmen called junk dealers; hence rubbish of any kind; odds and ends. Melnick v. City of Atlanta, 94 S. E. 1015, 1016, 147 Ga. 525; City of Shreveport v. Schultz, 98 So. 411, 412, 154 La. 899; City of St. Louis v. Baskowitz, 201 S. W. 870, 878, 273 Mo. 543; People v. Riverside Scrap Iron & Metal Co., 168 N. W. 424, 202 Mich. 469; Smolensky v. City of Chicago, 118 N. E. 410, 411, 282 Ill. 131; State v. Shapiro, 101 A. 703, 706, 131 Md. 168, Ann. Cas. 1918E, 196; Peisner v. City of Chicago, 149 N. E. 18, 19, 318 Ill. 131.

JUNK-SHOP. A shop where old cordage and ships' tackle, old iron, rags, bottles, paper, etc., are kept and sold. A place where odds and ends are purchased and sold. Charleston City Council v. Goldsmith, 12 Rich. Law (S. C.) 470.

JUNTA, or JUNTO. A select council for taking cognizance of affairs of great consequence requiring secrecy; a cabal or faction. This was a popular nickname applied to the Whig ministry in England, between 1693–1696. They clung to each other for mutual protection against the attacks of the so-called "Reactionist Stuart Party."

JURA. Lat. Plural of "jus." Rights; laws. 1 Bl. Comm. 123. See Jus.

Jura ecclesiastica limitata sunt infra limites separatos. Ecclesiastical laws are limited within separate bounds. 3 Bulst. 53.

Jura eodem modo destituuntur quo constituuntur. Laws are abrogated by the same means [authority] by which they are made. Broom, Max. 878.

JURA FISCALIA. In English law. Fiscal rights; rights of the exchequer. 3 Bl. Comm. 45.

JURA IN RE. In the civil law. Rights in a thing; rights which, being separated from the *dominium*, or right of property, exist independently of it, and are enjoyed by some other person than him who has the *dominium*. Mackeld. Rom. Law, § 237.

JURA MAJESTATIS. Rights of sovereignty or majesty; a term used in the civil law to designate certain rights which belong to each and every sovereignty and which are deemed essential to its existence. Gilmer v. Lime Point, 18 Cal. 250.

JURA MIXTI DOMINII. In old English law. Rights of mixed dominion. The king's right or power of jurisdiction was so termed. Hale, Anal. § 6.

Jura naturæ sunt immutabilia. The laws of nature are unchangeable. Branch, Princ.

JURA PERSONARUM. Rights of persons; the rights of persons. Rights which concern and are annexed to the persons of men. 1 Bl. Comm. 122.

JURA PRÆDIORUM. In the civil law. The rights of estates. Dig. 50, 16, 86.

Jura publica anteferenda privatis. Public rights are to be preferred to private. Co. Litt. 130*a*. Applied to protections.

Jura publica ex privato [privatis] promiscue decidi non debent. Public rights ought not to be decided promiscuously with private. Co. Litt. 130*a*, 181*b*.

JURA REGALIA. In English law. Royal rights or privileges. 1 Bl. Comm. 117, 119; 3 Bl. Comm. 44.

JURA REGIA. In English law. Royal rights; the prerogatives of the crown. Crabb, Com. Law, 174.

Jura regis specialia non conceduntur per generalia verba. The special rights of the king are not granted by general words. Jenk. Cent. p. 103.

JURA RERUM. Rights of things; the rights of things; rights which a man may acquire over external objects or things, unconnected with his person. 1 Bl. Comm. 122; 2 Bl. Comm. 1.

Jura sanguinis nullo jure civili dirimi possunt. The right of blood and kindred cannot be destroyed by any civil law. Dig. 50, 17, 9; Bac. Max. reg. 11; Broom, Max. 533; Jackson v. Phillips, 14 Allen (Mass.) 562.

JURA SUMMI IMPERII. Rights of supreme dominion; rights of sovereignty. 1 Bl. Comm. 49; 1 Kent, Comm. 211.

JURAL. **1.** Pertaining to natural or positive right, or to the doctrines of rights and obligations; as "jural relations."

2. Of or pertaining to jurisprudence; juristic; juridical.

3. Recognized or sanctioned by positive law; embraced within, or covered by, the rules and enactments of positive law. Thus, the "jural sphere" is to be distinguished from the "moral sphere;" the latter denoting the whole scope or range of ethics or the science of conduct, the former embracing only such portions of the same as have been made the subject of legal sanction or recognition.

4. Founded in law; organized upon the basis of a fundamental law, and existing for the recognition and protection of rights. Thus, the term "jural society" is used as the synonym of "state" or "organized political community."

JURAMENTÆ CORPORALES. Lat. Corporal oaths, *q. v.*

JURAMENTUM. Lat. In the civil law. An oath.

JURAMENTUM CALUMNIÆ. In the civil and canon law. The oath of calumny. An oath imposed upon both parties to a suit, as a preliminary to its trial, to the effect that they are not influenced by malice or any sinister motives in prosecuting or defending the same, but by a belief in the justice of their cause. It was also required of the attorneys and proctors.

JURAMENTUM CORPORALIS. A corporal oath. See Oath.

Juramentum est indivisibile; et non est admittendum in parte verum et in parte falsum. An oath is indivisible; it is not to be held partly true and partly false. 4 Inst. 274.

JURAMENTUM IN LITEM. In the civil law. An assessment oath; an oath, taken by the plaintiff in an action, that the extent of the damages he has suffered, estimated in money, amounts to a certain sum, which oath, in certain cases, is accepted in lieu of other proof. Mackeld. Rom. Law, § 376.

JURAMENTUM JUDICIALE. In the civil law. An oath which the judge, of his own accord, defers to either of the parties. It is of two kinds: *First*, that which the judge defers for the decision of the cause, and which is understood by the general name "*juramentum judiciale*," and is sometimes called "suppletory oath," *juramentum suppletorium; second*, that which the judge defers in order to fix and determine the amount of the condemnation which he ought to pronounce, and which is called "*juramentum in litem.*" Poth. Obl. p. 4, c. 3, § 3, art. 3.

JURAMENTUM NECESSARIUM. In Roman law. A compulsory oath. A disclosure under oath, which the prætor compelled one of the parties to a suit to make, when the other, applying for such an appeal, agreed to abide by what his adversary should swear. 1 Whart. Ev. § 458; Dig. 12, 2, 5, 2.

JURAMENTUM VOLUNTARIUM. In Roman law. A voluntary oath. A species of appeal to conscience, by which one of the parties to a suit, instead of proving his case, offered to abide by what his adversary should answer under oath. 1 Whart. Ev. § 458; Dig. 12, 2, 34, 6.

JURARE. Lat. To swear; to take an oath.

Jurare est Deum in testem vocare, et est actus divini cultus. 3 Inst. 165. To swear is to call God to witness, and is an act of religion.

JURAT. The clause written at the foot of an affidavit, stating when, where, and before whom such affidavit was sworn. See U. S. v. McDermott, 140 U. S. 151, 11 Sup. Ct. 746, 35 L. Ed. 391; U. S. v. Julian, 162 U. S. 324, 16 Sup. Ct. 801, 40 L. Ed. 984; Lutz v. Kinney, 23 Nev. 279, 46 Pac. 257.

JURATA. In old English law. A jury of twelve men sworn. Especially, a jury of the common law, as distinguished from the *assisa.*

The jury clause in a *nisi prius* record, so called from the emphatic words of the old forms: "*Jurata ponitur in respectum,*" the jury is put in respite. Townsh. Pl. 487.

Also a jurat, (which see.)

JURATION. The act of swearing; the administration of an oath.

Jurato creditur in judicio. He who makes oath is to be believed in judgment. 3 Inst. 79.

JURATOR. A juror; a compurgator, *(q. v.)*.

Juratores debent esse vicini, sufficientes, et minus suspecti. Jurors ought to be neighbors of sufficient estate, and free from suspicion. Jenk. Cent. 141.

Juratores sunt judices facti. Jenk. Cent. 61. Juries are the judges of fact.

JURATORY CAUTION. In Scotch law. A description of caution (security) sometimes offered in a suspension or advocation where the complainer is not in circumstances to offer any better. Bell.

JURATS. In English law. Officers in the nature of aldermen, sworn for the government of many corporations. The twelve assistants of the bailiff in Jersey are called "jurats."

JURE. Lat. By right; in right; by the law.

JURE BELLI. By the right or law of war. 1 Kent, Comm. 126; 1 C. Rob. Adm. 289.

JURE CIVILI. By the civil law. Inst. 1, 3, 4; 1 Bl. Comm. 423.

JURE CORONÆ. In right of the crown.

JURE DIVINO. By divine right. 1 Bl. Comm. 191.

JURE ECCLESIÆ. In right of the church. 1 Bl. Comm. 401.

JURE EMPHYTEUTICO. By the right or law of *emphyteusis*. 3 Bl. Comm. 232. See Emphyteusis.

JURE GENTIUM. By the law of nations. Inst. 1, 3, 4; 1 Bl. Comm. 423.

Jure naturæ æquum est neminem cum alterius detrimento et injuria fieri locupletiorem. By the law of nature it is not just that any one should be enriched by the detriment or injury of another. Dig. 50, 17, 206.

JURE PROPINQUITATIS. By right of propinquity or nearness. 2 Crabb, Real Prop. p. 1019, § 2398.

JURE REPRESENTATIONIS. By right of representation; in the right of another person. 2 Bl. Comm. 224, 517; 2 Crabb, Real Prop. p. 1019, § 2398.

JURE UXORIS. In right of a wife. 3 Bl. Comm. 210.

Juri non est consonum quod aliquis accessorius in curia regis convincatur antequam aliquis de facto fuerit attinctus. It is not consonant to justice that any accessary should be convicted in the king's court before any one has been attainted of the fact. 2 Inst. 183.

JURIDICAL. Relating to administration of justice, or office of a judge.

Regular; done in conformity to the laws of the country and the practice which is there observed.

JURIDICUS. Lat. Relating to the courts or to the administration of justice; juridical; lawful. *Dies juridicus*, a lawful day for the transaction of business in court; a day on which the courts are open.

JURIS. Lat. Of right; of law.

Juris affectus in executione consistit. The effect of the law consists in the execution. Co. Litt. 289*b*.

JURIS ET DE JURE. Of law and of right. A presumption *juris et de jure*, or an irrebuttable presumption, is one which the law will not suffer to be rebutted by any counter-evidence, but establishes as conclusive; while a presumption *juris tantum* is one which holds good in the absence of evidence to the contrary, but may be rebutted.

JURIS ET SEISINÆ CONJUNCTIO. The union of seisin or possession and the right of possession, forming a complete title. 2 Bl. Comm. 199, 311.

Juris ignorantia est cum jus nostrum ignoramus. It is ignorance of the law when we do not know our own rights. Haven v. Foster, 9 Pick. (Mass.) 130, 19 Am. Dec. 353.

JURIS POSITIVI. Of positive law; a regulation or requirement of positive law, as distinguished from natural or divine law. 1 Bl. Comm. 439; 2 Steph. Comm. 286.

Juris præcepta sunt hæc: Honeste vivere; alterum non lædere; suum cuique tribuere. These are the precepts of the law: To live honorably; to hurt nobody; to render to every one his due. Inst. 1, 1, 3; 1 Bl. Comm. 40.

JURIS PRIVATI. Of private right; subjects of private property. Hale, Anal. § 23.

JURIS PUBLICI. Of common right; of common or public use; such things as, at least in their own use, are common to all the king's subjects; as common highways, common bridges, common rivers, and common ports. Hale, Anal. § 23.

JURIS UTRUM. In English law. An abolished writ which lay for the parson of a church whose predecessor had alienated the lands and tenements thereof. Fitzh. Nat. Brev. 48.

JURISCONSULT. A jurist; a person skilled in the science of law, particularly of international or public law.

JURISCONSULTUS. Lat. In Roman law. An expert in juridical science; a person thoroughly versed in the laws, who was habitually resorted to, for information and advice, both by private persons as his clients, and also by the magistrates, advocates, and others employed in administering justice.

Jurisdictio est potestas de publico introducta, cum necessitate juris dicendi. Jurisdiction is a power introduced for the public good, on account of the necessity of dispensing justice. 10 Coke, 73*a*.

JURISDICTION. The power and authority constitutionally conferred upon (or constitutionally recognized as existing in) a court or judge to pronounce the sentence of the law, or to award the remedies provided by law, upon a state of facts, proved or admitted, referred to the tribunal for decision, and authorized by law to be the subject of investigation or action by that tribunal, and in favor of or against persons (or a *res*) who present themselves, or who are brought, before the court in some manner sanctioned by law as proper and sufficient. 1 Black, Judgm. § 215. And see Nenno v. Railroad Co., 105 Mo. App. 540, 80 S. W. 24; Ingram v. Fuson, 118 Ky. 882, 82 S. W. 606; Tod v. Crisman, 123 Iowa, 693, 99 N. W. 686; Harrigan v. Gilchrist, 121 Wis. 127, 99 N. W. 909; Wightman v. Karsner, 20 Ala. 451; Reynolds v. Stockton, 140 U. S. 254, 11 S. Ct. 773, 35 L. Ed. 464; Templeton v. Ferguson, 89 Tex. 47, 33 S. W. 329; Succession of Weigel, 17 La. Ann. 70.

Cognizance; capacity to determine the merits of a dispute or controversy and to grant the relief asked for. Kardo Co. v. Adams (C. C. A.) 231 F. 950, 955.

Jurisdiction is a power constitutionally conferred upon a judge or magistrate to take cognizance of and determine causes according to law, and to carry his sentence into execution. U. S. v. Arredondo, 6 Pet. 691, 8 L. Ed. 547; Yates v. Lansing, 9 Johns. (N. Y.) 413, 6 Am. Dec. 290; Johnson v. Jones, 2 Neb. 135.

The authority of a court as distinguished from the other departments; judicial power considered with reference to its scope and extent as respects the questions and persons subject to it; power given by law to hear and decide controversies. Abbott.

Jurisdiction is the power to hear and determine the subject-matter in controversy between parties to the suit; to adjudicate or exercise any judicial power over them. Rhode Island v. Massachusetts, 12 Pet. 657, 717, 9 L. Ed. 1233.

Jurisdiction is the power to hear and determine a cause; the authority by which judicial officers take cognizance of and decide causes. Brownsville v. Basse, 43 Tex. 440.

Appellate Jurisdiction

The power and authority to take cognizance of a cause and proceed to its determination, not in its initial stages, but only after it has been finally decided by an inferior court, *i. e.*, the power of review and determination on appeal, writ of error, certiorari, or other similar process.

Concurrent Jurisdiction

The jurisdiction of several different tribunals, each authorized to deal with the same subject-matter at the choice of the suitor. State v. Sinnott, 89 Me. 41, 35 A. 1007; Rogers v. Bonnett, 2 Okl. 553, 37 P. 1078; Hercules Iron Works v. Railroad Co., 141 Ill. 491, 30 N. E. 1050; In re Nichols' Will, 64 Okl. 241, 166 P. 1087, 1090; Cashman v. Vickers, 69 Mont. 516, 223 P. 897, 898.

Contentious Jurisdiction

In English ecclesiastical law. That branch of the jurisdiction of the ecclesiastical courts which is exercised upon adversary or contentious (opposed, litigated) proceedings.

Co-ordinate Jurisdiction

That which is possessed by courts of equal rank, degree, or authority, equally competent to deal with the matter in question, whether belonging to the same or different systems; concurrent jurisdiction.

Criminal Jurisdiction

That which exists for the trial and punishment of criminal offenses; the authority by which judicial officers take cognizance of and decide criminal cases. Ellison v. State, 125 Ind. 492, 24 N. E. 739; In re City of Buffalo, 139 N. Y. 422, 34 N. E. 1103.

Equity Jurisdiction

In a general sense, the jurisdiction belonging to a court of equity, but more particularly the aggregate of those cases, controversies, and occasions which form proper subjects for the exercise of the powers of a chancery court. See Anderson v. Carr, 65 Hun, 179, 19 N. Y. S. 992; People v. McKane, 78 Hun, 154, 28 N. Y. S. 981.

Foreign Jurisdiction

Any jurisdiction foreign to that of the forum. Also the exercise by a state or nation of jurisdiction beyond its own territory, the right being acquired by treaty or otherwise.

General Jurisdiction

Such as extends to all controversies that may be brought before a court within the legal bounds of rights and remedies; as opposed to *special* or *limited* jurisdiction, which covers only a particular class of cases, or cases where the amount in controversy is below a prescribed sum, or which is subject to specific exceptions. The terms "general" and "special," applied to jurisdiction, indicate the difference between a legal authority extending to the whole of a particular subject and one limited to a part; and, when applied to the terms of court, the occasion upon which these powers can be respectively exercised. Gracie v. Freeland, 1 N. Y. 232.

Limited Jurisdiction

This term is ambiguous, and the books sometimes use it without due precision. It is sometimes carelessly employed instead of "special." The true distinction between courts is between such as possess a general and such as have only a special jurisdiction for a particular purpose, or are clothed with special powers for the performance. Obert v. Hammel, 18 N. J. Law, 73.

Original Jurisdiction

Jurisdiction in the first instance; jurisdiction to take cognizance of a cause at its inception, try it, and pass judgment upon the law and facts. Distinguished from *appellate* jurisdiction.

Probate Jurisdiction

Such jurisdiction as ordinarily pertains to probate, orphans', or surrogates' courts, including the establishment of wills, the administration of estates, the supervising of the guardianship of infants, the allotment of dower, etc. See Richardson v. Green, 61 F. 423, 9 C. C. A. 565; Chadwick v. Chadwick, 6 Mont. 566, 13 P. 385.

Special Jurisdiction

A court authorized to take cognizance of only some few kinds of causes or proceedings expressly designated by statute is called a "court of special jurisdiction."

Summary Jurisdiction

The jurisdiction of a court to give a judgment or make an order itself forthwith; *e. g.*, to commit to prison for contempt; to punish malpractice in a solicitor; or, in the case of justices of the peace, a jurisdiction to convict an offender themselves instead of committing him for trial by a jury. Wharton.

Territorial Jurisdiction

Jurisdiction considered as limited to cases arising or persons residing within a defined territory, as, a county, a judicial district, etc. The authority of any court is limited by the boundaries thus fixed. See Phillips v. Thralls, 26 Kan. 781.

Voluntary Jurisdiction

In English law. A jurisdiction exercised by certain ecclesiastical courts, in matters where there is no opposition. 3 Bl. Comm. 66. The opposite of *contentious* jurisdiction, (*q. v.*) In Scotch law. One exercised in matters admitting of no opposition or question, and therefore cognizable by any judge, and in any place, and on any lawful day. Bell.

Jurisdiction Clause

In equity practice. That part of a bill which is intended to give jurisdiction of the suit to the court, by a general averment that the acts complained of are contrary to equity, and tend to the injury of the complainant, and that he has no remedy, or not a complete remedy, without the assistance of a court of equity, is called the "jurisdiction clause." Mitf. Eq. Pl. 43.

JURISDICTIONAL. Pertaining or relating to jurisdiction; conferring jurisdiction; showing or disclosing jurisdiction; defining or limiting jurisdiction; essential to jurisdiction.

—Jurisdictional facts. See Fact.

JURISINCEPTOR. Lat. A student of the civil law.

JURISPERITUS. Lat. Skilled or learned in the law.

JURISPRUDENCE. The philosophy of law, or the science which treats of the principles of positive law and legal relations.

"The term is wrongly applied to actual systems of law, or to current views of law, or to suggestions for its amendment, but is the name of a science. This science is a formal, or analytical, rather than a material, one. It is the science of actual or positive law. It is wrongly divided into 'general' and 'particular,' or into 'philosophical' and 'historical.' It may therefore be defined as the formal science of positive law." Holl. Jur. 12.

In the proper sense of the word, "jurisprudence" is the science of law, namely, that science which has for its function to ascertain the principles on which legal rules are based, so as not only to classify those rules in their proper order, and show the relation in which they stand to one another, but also to settle the manner in which new or doubtful cases should be brought under the appropriate rules. Jurisprudence is more a formal than a material science. It has no direct concern with questions of moral or political policy, for they fall under the province of ethics and legislation; but, when a new or doubtful case arises to which two different rules seem, when taken literally, to be equally applicable, it may be, and often is, the function of jurisprudence to consider the ultimate effect which would be produced if each rule were applied to an indefinite number of similar cases, and to choose that rule which, when so applied, will produce the greatest advantage to the community. Sweet.

Comparative Jurisprudence

The study of the principles of legal science by the comparison of various systems of law.

Equity Jurisprudence

That portion of remedial justice which is exclusively administered by courts of equity as distinguished from courts of common law. Jackson v. Nimmo, 3 Lea (Tenn.) 609. More generally speaking, the science which treats of the rules, principles, and maxims which govern the decisions of a court of equity, the cases and controversies which are considered proper subjects for its cognizance, and the nature and form of the remedies which it grants.

Medical Jurisprudence

The science which applies the principles and practice of the different branches of medi-

cine to the elucidation of doubtful questions in a court of justice. Otherwise called "forensic medicine," (*q. v.*). A sort of mixed science, which may be considered as common ground to the practitioners both of law and physic. 1 Steph. Comm. 8.

JURISPRUDENTIA. Lat. In the civil and common law. Jurisprudence, or legal science.

Jurisprudentia est divinarum atque humanarum rerum notitia, justi atque injusti scientia. Jurisprudence is the knowledge of things divine and human, the science of what is right and what is wrong. Dig. 1, 1, 10, 2; Inst. 1, 1, 1. This definition is adopted by Bracton, word for word. Bract. fol. 3.

Jurisprudentia legis communis Angliæ est scientia socialis et copiosa. The jurisprudence of the common law of England is a science social and comprehensive. 7 Coke, 28*a*.

JURIST. One who is versed or skilled in law; answering to the Latin "*jurisperitus*," (*q. v.*).

One who is skilled in the civil law, or law of nations. The term is now usually applied to those who have distinguished themselves by their *writings* on legal subjects.

JURISTIC. Pertaining or belonging to, or characteristic of, jurisprudence, or a jurist, or the legal profession.

JURISTIC ACT. One designed to have a legal effect, and capable thereof.

An act of a private individual directed to the origin, termination, or alteration of a right. Webster, Dict., citing T. E. Holland.

JURNEDUM. In old English law. A journey; a day's traveling. Cowell.

JURO. In Spanish law. A certain perpetual pension, granted by the king on the public revenues, and more especially on the saltworks, by favor, either in consideration of meritorious services, or in return for money loaned the government, or obtained by it through forced loans. Escriche.

JUROR. One member of a jury. The term is not inflexible, and besides a person who has been accepted and sworn to try a cause "juror" may also mean a person selected for jury service. Green v. Smither (Ky.) 199 S. W. 1056; People v. Newmark, 312 Ill. 625, 144 N. E. 338, 340. Sometimes, one who takes an oath; as in the term "non-juror," a person who refuses certain oaths.

JUROR'S BOOK. A list of persons qualified to serve on juries.

JURY. In practice. A certain number of men, selected according to law, and *sworn* (*jurati*) to inquire of certain matters of fact, and declare the truth upon evidence to be laid before them. This definition embraces the various subdivisions of juries; as *grand jury, petit jury, common jury, special jury, coroner's jury, sheriff's jury,* (*q. v.*)

A jury is a body of men temporarily selected from the citizens of a particular district, and invested with power to present or indict a person for a public offense, or to try a question of fact. Code Civil Proc. Cal. § 190.

The terms "jury" and "trial by jury," as used in the constitution, mean twelve competent men, disinterested and impartial, not of kin, nor personal dependents of either of the parties, having their homes within the jurisdictional limits of the court, drawn and selected by officers free from all bias in favor of or against either party, duly impaneled and sworn to render a true verdict according to the law and the evidence. State v. McClear, 11 Nev. 39.

Classification

—Common jury. In practice. The ordinary kind of jury by which issues of fact are generally tried, as distinguished from a *special jury*, (*q. v.*).

—Foreign jury. A jury obtained from a county other than that in which issue was joined.

—Grand jury. A jury of inquiry who are summoned and returned by the sheriff to each session of the criminal courts, and whose duty is to receive complaints and accusations in criminal cases, hear the evidence adduced on the part of the state, and find bills of indictment in cases where they are satisfied a trial ought to be had. They are first sworn, and instructed by the court. This is called a "grand jury" because it comprises a greater number of jurors than the ordinary trial jury or "petit jury." At common law, a grand jury consisted of not less than twelve nor more than twenty-three men, and this is still the rule in many of the states, though in some the number is otherwise fixed by statute; thus in Oregon and Utah, the grand jury is composed of seven men; in South Dakota, not less than six nor more than eight; in Texas, twelve; in Idaho, sixteen; in Washington, twelve to seventeen; in North Dakota, sixteen to twenty-three; in California, nineteen; in New Mexico, twenty-one. See Ex parte Bain, 121 U. S. 1, 7 S. Ct. 781, 30 L. Ed. 849; In re Gardiner, 31 Misc. 364, 64 N. Y. S. 760; Finley v. State, 61 Ala. 204; People v. Duff, 65 How. Prac. (N. Y.) 365; English v. State, 31 Fla. 340, 12 So. 689; Jones v. McClaughry, 169 Iowa, 281, 151 N. W. 210, 216.

—Mixed jury. A bilingual jury; a jury of the half-tongue. See De Medietatæ Linguæ. Also a jury composed partly of negroes and partly of white men.

—Petit jury. The ordinary jury of twelve men for the trial of a civil or criminal action. So called to distinguish it from the grand jury. A petit jury is a body of twelve men impaneled and sworn in a district court, to try and determine, by a true and unanimous verdict, any question or issue of fact, in any civil or criminal action or proceeding, according to

law and the evidence as given them in the court. Gen. St. Minn. 1878, c. 71, § 1 (Minn. St. 1927, § 9456).

—Pix jury. See Pix.

—Special jury. A jury ordered by the court, on the motion of either party, in cases of unusual importance or intricacy. Called, from the manner in which it is constituted, a "struck jury." 3 Bl. Comm. 357. A jury composed of persons above the rank of ordinary freeholders; usually summoned to try questions of greater importance than those usually submitted to common juries. Brown.

—Struck jury. In practice. A special jury. So called because constituted by *striking out* a certain number of names from a prepared list. See Wallace v. Railroad Co., 8 Houst. (Del.) 529, 18 A. 818; Cook v. State, 24 N. J. Law, 843.

—Trial jury. A body of men returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine, by verdict, a question of fact. Code Civ. Proc. Cal. § 193.

Other Compound Terms

—Jury-box. The place in court (strictly an inclosed place) where the jury sit during the trial of a cause. 1 Archb. Pr. K. B. 208; 1 Burrill, Pr. 455.

—Jury commissioner. An officer charged with the duty of selecting the names to be put into the jury wheel, or of drawing the panel of jurors for a particular term of court.

—Jury-list. A paper containing the names of jurors impaneled to try a cause, or it contains the names of all the jurors summoned to attend court.

—Jury of matrons. In common-law practice. A jury of twelve matrons or discreet women, impaneled upon a writ *de ventre inspiciendo*, or where a female prisoner, being under sentence of death, pleaded her pregnancy as a ground for staying execution. In the latter case, such jury inquired into the truth of the plea.

—Jury process. The process by which a jury is summoned in a cause, and by which their attendance is enforced.

—Jury wheel. A machine containing the names of persons qualified to serve as grand and petit jurors, from which, in an order determined by the hazard of its revolutions, are drawn a sufficient number of such names to make up the panels for a given term of court.

JURYMAN. A juror; one who is impaneled on a jury.

JURYWOMAN. One member of a jury of matrons, (*q. v.*).

JUS. Lat. In Roman law. Right; justice; law; the whole body of law; also a right. The term is used in two meanings:

1. "*Jus*" means "law," considered in the abstract; that is, as distinguished from any specific enactment, the science or department of learning, or *quasi* personified factor in human history or conduct or social development, which we call, in a general sense, "the law." Or it means the law taken as a system, an aggregate, a whole; "the sum total of a number of individual laws taken together." Or it may designate some one particular system or body of particular laws; as in the phrases "*jus civile*," "*jus gentium*," "*jus prætorium*."

2. In a second sense, "*jus*" signifies "a right;" that is, a power, privilege, faculty, or demand inherent in one person and incident upon another; or a capacity residing in one person of controlling, with the assent and assistance of the state, the actions of another. This is its meaning in the expressions "*jus in rem*," "*jus accrescendi*," "*jus possessionis*."

It is thus seen to possess the same ambiguity as the words "*droit*," "*recht*," and "right," (which see.)

Within the meaning of the maxim that "*ignorantia juris non excusat*" (ignorance of the law is no excuse), the word "*jus*" is used to denote the general law or ordinary law of the land, and not a private right. Churchill v. Bradley, 58 Vt. 403, 5 A. 189, 56 Am. Rep. 563; Cooper v. Fibbs, L. R. 2 H. L. 149; Freichnecht v. Meyer, 39 N. J. Eq. 561.

The continental jurists seek to avoid this ambiguity in the use of the word "*jus*," by calling its former signification "objective," and the latter meaning "subjective." Thus Mackeldey (Rom. Law, § 2) says: "The laws of the first kind [compulsory or positive laws] form law [*jus*] in its objective sense, [*jus est norma agendi*, law is a rule of conduct.] The possibility resulting from law in this sense to do or require another to do is law in its subjective sense, [*jus est facultas agendi*, law is a license to act.] The voluntary action of man in conformity with the precepts of law is called 'justice,' [*justitia*.]"

Some further meanings of the word are:

An action. Bract. fol. 3. Or, rather, those proceedings in the Roman action which were conducted before the prætor.

Power or authority. *Sui juris*, in one's own power; independent. Inst. 1, 8, pr.; Bract. fol. 3. *Alieni juris*, under another's power. Inst. 1, 8, pr.

The profession (*ars*) or practice of the law. *Jus ponitur pro ipsa arte*. Bract. fol. 2*b*.

A court or judicial tribunal, (*locus in quo redditur jus*.) Id. fol. 3.

For various compound and descriptive terms, see the following titles:

JUS ABSTINENDI. The right of renunciation; the right of an heir, under the Roman law, to renounce or decline the inheritance, as, for example, where his acceptance, in consequence of the necessity of paying the debts,

would make it a burden to him. See Mackeld. Rom. Law, § 733.

JUS ABUTENDI. The right to abuse. By this phrase is understood the right to do exactly as one likes with property, or having full dominion over property. 3 Toullier, no. 86.

JUS ACCRESCENDI. The right of survivorship. The right of the survivor or survivors of two or more joint tenants to the tenancy or estate, upon the death of one or more of the joint tenants. In re Capria's Estate, 89 Misc. 101, 151 N. Y. S. 385, 386.

Jus accrescendi inter mercatores, pro beneficio commercii, locum non habet. The right of survivorship has no place between merchants, for the benefit of commerce. Co. Litt. 182*a*; 2 Story, Eq. Jur. § 1207; Broom, Max. 455. There is no survivorship in cases of partnership, as there is in joint-tenancy. Story, Partn. § 90.

Jus accrescendi præfertur oneribus. The right of survivorship is preferred to incumbrances. Co. Litt. 185*a*. Hence no dower or curtesy can be claimed out of a joint estate. 1 Steph. Comm. 316.

Jus accrescendi præfertur ultimæ voluntati. The right of survivorship is preferred to the last will. Co. Litt. 185*b*. A devise of one's share of a joint estate, by will, is no severance of the jointure; for no testament takes effect till after the death of the testator, and by such death the right of the survivor (which accrued at the original creation of the estate, and has therefore a priority to the other) is already vested. 2 Bl. Comm. 186; 3 Steph. Comm. 316.

JUS ACTUS.

In Roman Law

A rural servitude giving to a person a passage for carriages, or for cattle.

JUS AD REM. A term of the civil law, meaning "a right to a thing;" that is, a right exercisable by one person over a particular article of property in virtue of a contract or obligation incurred by another person in respect to it, and which is enforceable only against or through such other person. It is thus distinguished from *jus in re*, which is a complete and absolute dominion over a thing available against all persons.

The disposition of modern writers is to use the term "*jus ad rem*" as descriptive of a right without possession, and "*jus in re*" as descriptive of a right accompanied by possession. Or, in a somewhat wider sense, the former denotes an inchoate or incomplete right to a thing; the latter, a complete and perfect right to a thing. See The Carlos F. Roses, 20 S. Ct. 803, 177 U. S. 655, 44 L. Ed. 929; The Young Mechanic, 30 Fed. Cas. 873.

In Canon Law

A right to a thing. An inchoate and imperfect right, such as is gained by nomination and institution; as distinguished from *jus in re*, or complete and full right, such as is acquired by corporal possession. 2 Bl. Comm. 312.

JUS ÆLIANUM. A body of laws drawn up by Sextus Ælius, and consisting of three parts, wherein were explained, respectively: (1) The laws of the Twelve Tables; (2) the interpretation of and decisions upon such laws; and (3) the forms of procedure. In date, it was subsequent to the *jus Flavianum*, (*q. v.*) Brown.

JUS ÆQUUM. Equitable law. A term used by the Romans to express the adaptation of the law to the circumstances of the individual case as opposed to *jus strictum* (*q. v.*).

JUS ÆSNECIÆ. The right of primogeniture, (*q. v.*).

JUS ALBINATUS. The *droit d'aubaine*, (*q. v.*) See Albinatus Jus.

JUS ANGARIÆ. See Angaria; Angary, Right of.

JUS ANGLORUM. The laws and customs of the West Saxons, in the time of the Heptarchy, by which the people were for a long time governed, and which were preferred before all others. Wharton.

JUS AQUÆDUCTUS. In the civil law. The name of a servitude which gives to the owner of land the right to bring down water through or from the land of another.

JUS AQUÆ HAUSTUS.

In Roman Law

A rural servitude giving to a person a right of watering cattle on another's field, or of drawing water from another's well.

JUS BANCI. In old English law. The right of bench. The right or privilege of having an elevated and separate *seat of judgment*, anciently allowed only to the king's judges, who hence were said to administer *high* justice, (*summam administrant justitiam.*) Blount.

JUS BELLI. The law of war. The law of nations as applied to a state of war, defining in particular the rights and duties of the belligerent powers themselves, and of neutral nations.

The right of war; that which may be done without injustice with regard to an enemy. Gro. de Jure B. lib. 1, c. 1, § 3.

JUS BELLUM DICENDI. The right of proclaiming war.

JUS CANONICUM. The canon law.

JUS CIVILE. Civil law. The system of law peculiar to one state or people. Inst. 1, 2, 1. Particularly, in Roman law, the civil law of the Roman people, as distinguished from

the *jus gentium*. The term is also applied to the body of law called, emphatically, the "civil law."

The *jus civile* and the *jus gentium* are distinguished in this way. All people ruled by statutes and customs use a law partly peculiar to themselves, partly common to all men. The law each people has settled for itself is peculiar to the state itself, and is called "*jus civile*," as being peculiar to that very state. The law, again, that natural reason has settled among all men,—the law that is guarded among all peoples quite alike,—is called the "*jus gentium*," and all nations use it as if law. The Roman people, therefore, use a law that is partly peculiar to itself, partly common to all men. Hunter, Rom. Law, 38.

But this is not the only, or even the general, use of the words. What the Roman jurists had chiefly in view, when they spoke of "*jus civile*," was not local as opposed to cosmopolitan law, but the old law of the city as contrasted with the newer law introduced by the prætor, (*jus prætorium, jus honorarium.*) Largely, no doubt, the *jus gentium* corresponds with the *jus prætorium*; but the correspondence is not perfect. Id. 39.

Jus civile est quod sibi populus constituit. The civil law is what a people establishes for itself. Inst. 1, 2, 1; Jackson v. Jackson, 1 Johns. (N. Y.) 424, 426.

JUS CIVITATUS. The right of citizenship; the freedom of the city of Rome. It differs from *jus quiritium*, which comprehended all the privileges of a free native of Rome. The difference is much the same as between "denization" and "naturalization" with us. Wharton.

JUS CLOACÆ. In the civil law. The right of sewerage or drainage. An easement consisting in the right of having a sewer, or of conducting surface water, through the house or over the ground of one's neighbor. Mackeld. Rom. Law, § 317.

JUS COMMUNE.

In the Civil Law

Common right; the common and natural rule of right, as opposed to *jus singulare*, (*q. v.*) Mackeld, Rom. Law, § 196.

In English Law

The common law, answering to the Saxon "*folcright*." 1 Bl. Comm. 67.

Jus constitui oportet in his quæ ut plurimum accidunt non quæ ex inopinato. Laws ought to be made with a view to those cases which happen most frequently, and not to those which are of rare or accidental occurrence. Dig. 1, 3, 3; Broom, Max. 43.

JUS CORONÆ. In English law. The right of the crown, or to the crown; the right of succession to the throne. 1 Bl. Comm. 191; 2 Steph. Comm. 434.

JUS CUDENDÆ MONETÆ. In old English law. The right of coining money. 2 How. State Tr. 118.

JUS CURIALITATIS. In English law. The right of curtesy. Spelman.

JUS DARE. To give or to make the law; the function and prerogative of the legislative department.

JUS DELIBERANDI. In the civil law. The right of deliberating. A term granted by the proper officer at the request of him who is called to the inheritance, (the heir,) within which he has the right to investigate its condition and to consider whether he will accept or reject it. Mackeld. Rom. Law, § 742; Civ. Code La. art. 1026 (Civ. Code, art. 1033).

Jus descendit, et non terra. A right descends, not the land. Co. Litt. 345.

JUS DEVOLUTUM. The right of the church of presenting a minister to a vacant parish, in case the patron shall neglect to exercise his right within the time limited by law.

JUS DICERE. To declare the law; to say what the law is. The province of a court or judge. 2 Eden, 29; 3 P. Wms. 485.

Jus dicere, et non jus dare. To declare the law, not to make it. 7 Term 696; *Arg.* Barry v. Mandell, 10 Johns. (N. Y.) 563, 566; 7 Exch. 543; 2 Eden 29; 4 C. B. 560, 561; Broom, Max. 140.

JUS DISPONENDI. The right of disposing. An expression used either generally to signify the right of alienation, as when we speak of depriving a married woman of the *jus disponendi* over her separate estate, or specially in the law relating to sales of goods, where it is often a question whether the vendor of goods has the intention of reserving to himself the *jus disponendi*; *i. e.*, of preventing the ownership from passing to the purchaser, notwithstanding that he (the vendor) has parted with the possession of the goods. Sweet.

JUS DISTRAHENDI. The right of sale of goods pledged in case of non-payment. See Pledge; Distress.

JUS DIVIDENDI. The right of disposing of realty by will. Du Cange.

JUS DUPLICATUM. A double right; the right of possession united with the right of property; otherwise called "*droit-droit*." 2 Bl. Comm. 199.

JUS EDICERE, JUS EDICENDI. The right to issue edicts. It belonged to all the higher magistrates, but special interest is attached to the prætorian edicts in connection with the history of Roman law. See Prætor.

Jus est ars boni et æqui. Law is the science of what is good and just. Dig. 1, 1, 1, 1; Bract. fol. 2*b*.

Jus est norma recti; et quicquid est contra normam recti est injuria. Law is a rule of

right; and whatever is contrary to the rule of right is an injury. 3 Bulst. 313.

Jus et fraus nunquam cohabitant. Right and fraud never dwell together. 10 Coke, 45*a*. Applied to the title of a statute. Id.; Best, Ev. p. 250, § 205.

Jus ex injuria non oritur. A right does (or can) not rise out of a wrong. Broom, Max. 738, note; 4 Bing. 639.

JUS EX NON SCRIPTO. Law constituted by custom or such usage as indicates the tacit consent of the community.

JUS FALCANDI. In old English law. The right of mowing or cutting. Fleta, lib. 4, c. 27, § 1.

JUS FECIALE. In Roman law. The law of arms, or of heralds. A rudimentary species of international law founded on the rites and religious ceremonies of the different peoples.

JUS FIDUCIARIUM. In the civil law. A right in trust; as distinguished from *jus legitimum*, a legal right. 2 Bl. Comm. 328.

JUS FLAVIANUM. In old Roman law. A body of laws drawn up by Cneius Flavius, a clerk of Appius Claudius, from the materials to which he had access. It was a popularization of the laws. Mackeld. Rom. Law, § 39.

JUS FLUMINUM. In the civil law. The right to the use of rivers. Locc. de Jure Mar. lib. 1, c. 6.

JUS FODIENDI. In the civil and old English law. A right of digging on another's land. Inst. 2, 3, 2; Bract. fol. 222.

JUS FUTURUM. In the civil law. A future right; an inchoate, incipient, or expectant right, not yet fully vested. It may be either "*jus delatum*," when the subsequent acquisition or vesting of it depends merely on the will of the person in whom it is to vest, or "*jus nondum delatum*," when it depends on the future occurrence of other circumstances or conditions. Mackeld. Rom. Law, § 191.

JUS GENTIUM. The law of nations. That law which natural reason has established among all men is equally observed among all nations, and is called the "law of nations," as being the law which all nations use. Inst. 1, 2, 1; Dig. 1, 1, 9; 1 Bl. Comm. 43; 1 Kent, Comm. 7; Mackeld. Rom. Law, § 125.

Although this phrase had a meaning in the Roman law which may be rendered by our expression "law of nations," it must not be understood as equivalent to what we now call "international law," its scope being much wider. It was originally a system of law, or more properly equity, gathered by the early Roman lawyers and magistrates from the common ingredients in the customs of the old Italian tribes,—those being the nations, *gentes*, whom they had opportunities of observing,—to be used in cases where the *jus civile* did not apply; that is, in cases between foreigners or between a Roman citizen and a foreigner. The principle upon which they proceeded was that any rule of law which was common to all the nations they knew of must be intrinsically consonant to right reason, and therefore fundamentally valid and just. From this it was an easy transition to the converse principle, viz., that any rule which instinctively commended itself to their sense of justice and reason must be a part of the *jus gentium*. And so the latter term came eventually to be about synonymous with "equity," (as the Romans understood it,) or the system of prætorian law.

Modern jurists frequently employ the term "*jus gentium privatum*" to denote private international law, or that subject which is otherwise styled the "conflict of laws;" and "*jus gentium publicum*" for public international law, or the system of rules governing the intercourse of nations with each other as persons.

JUS GLADII. The right of the sword; the executory power of the law; the right, power, or prerogative of punishing for crime. 4 Bl. Comm. 177.

JUS HABENDI. The right to have a thing. The right to be put in actual possession of property. Lewin, Trusts, 585.

JUS HABENDI ET RETINENDI. A right to have and to retain the profits, tithes, and offerings, etc., of a rectory or parsonage.

JUS HÆREDITATIS. The right of inheritance.

JUS HAURIENDI. In the civil and old English law. The right of drawing water. Fleta, lib. 4, c. 27, § 1.

JUS HONORARIUM. The body of Roman law, which was made up of edicts of the supreme magistrates, particularly the prætors.

JUS HONORUM.

In Roman Law

The right of holding offices. See Jus Suffragii.

JUS IMAGINIS. In Roman law. The right to use or display pictures or statues of ancestors; somewhat analogous to the right, in English law, to bear a coat of arms.

JUS IMMUNITATIS. In the civil law. The law of immunity or exemption from the burden of public office. Dig. 50, 6.

JUS IN PERSONAM. A right against a person; a right which gives its possessor a power to oblige another person to give or procure, to do or not to do, something.

JUS IN RE. In the civil law. A right in a thing. A right existing in a person with respect to an article or subject of property, inherent in his relation to it, implying complete ownership with possession, and available against all the world. See **Jus ad Rem.**

JUS IN RE ALIENA. An easement on servitude, or right in, or arising out of, the property of another.

Jus in re inhærit ossibus usufructuarii. A right in the thing cleaves to the person of the usufructuary.

JUS IN RE PROPRIA. The right of enjoyment which is incident to full ownership or property, and is often used to denote the full ownership or property itself. It is distinguished from *jus in re alienâ*, which is a mere easement or right in or over the property of another.

JUS INCOGNITUM. An unknown law. This term is applied by the civilians to obsolete laws. Bowyer, Mod. Civil Law, 33.

JUS INDIVIDUUM. An individual or indivisible right; a right incapable of division. 36 Eng. Law & Eq. 25.

JUS ITALICUM. A term of the Roman law descriptive of the aggregate of rights, privileges, and franchises possessed by the cities and inhabitants of Italy, outside of the city of Rome, and afterwards extended to some of the colonies and provinces of the empire, consisting principally in the right to have a free constitution, to be exempt from the land tax, and to have the title to the land regarded as Quiritarian property. See Gibbon, Rom. Emp. c. xvii; Mackeld. Rom. Law, § 43.

JUS ITINERIS.

In Roman Law

A rural servitude giving to a person the right to pass over an adjoining field, on foot or horseback.

Jus jurandi forma verbis differt, re convenit; hunc enim sensum habere debet: ut Deus invocetur. Grot. de Jur. B., l. 2, c. 13, § 10. The form of taking an oath differs in language, agrees in meaning; for it ought to have this sense: that the Deity is invoked.

JUS LATII. In Roman law. The right of Latium or of the Latins. The principal privilege of the Latins seems to have been the use of their own laws, and their not being subject to the edicts of the prætor, and that they had occasional access to the freedom of Rome, and a participation in her sacred rites. Butl. Hor. Jur. 41.

JUS LATIUM. In Roman law. A rule of law applicable to magistrates in Latium. It was either *majus Latium* or *minus Latium*,—the *majus Latium* raising to the dignity of Roman citizen not only the magistrate himself, but also his wife and children; the *minus Latium* raising to that dignity only the magistrate himself. Brown.

JUS LEGITIMUM. A legal right. In the civil law. A right which was enforceable in the ordinary course of law. 2 Bl. Comm. 328.

JUS LIBERORUM.

In Roman Law

The privilege conferred upon a woman who had three or four children. In order that she should be able to take all the property given her by will, she must have had this privilege conferred upon her. Sohm, Inst. Rom. L. § 86. In the time of Hadrian, a decree was made conferring upon a mother, as such, who, being an *ingenua*, had the *jus trium liberorum*, or being a *libertina*, the *jus quatuor liberorum*, a civil law right to succeed her intestate children; *id.* § 98.

Another author defines this privilege as one by which exemption was given from all troublesome offices. Brown, L. Dict.

JUS MARITI. The right of a husband; especially the right which a husband acquires to his wife's movable estate by virtue of the marriage. 1 Forb. Inst. pt. 1, p. 63.

JUS MERUM. In old English law. Mere or bare right; the mere right of property in lands, without either possession or even the right of possession. 2 Bl. Comm. 197; Bract. fol. 23.

JUS MORIBUS CONSTITUTUM. See Jus Ex Non Scripto.

JUS NATURÆ. The law of nature. See Jus Naturale.

JUS NATURALE. The natural law, or law of nature; law, or legal principles, supposed to be discoverable by the light of nature or abstract reasoning, or to be taught by nature to all nations and men alike; or law supposed to govern men and peoples in a state of nature, *i. e.*, in advance of organized governments or enacted laws. This conceit originated with the philosophical jurists of Rome, and was gradually extended until the phrase came to denote a supposed basis or substratum common to all systems of positive law, and hence to be found, in greater or less purity, in the laws of all nations. And, conversely, they held that if any rule or principle of law was observed in common by all peoples with whose systems they were acquainted, it must be a part of the *jus naturale*, or derived from it. Thus the phrases "*jus naturale*" and "*jus gentium*" came to be used interchangeably.

Jus naturale est quod apud homines eandem habet potentiam. Natural right is that which has the same force among all mankind. 7 Coke, 12.

JUS NAVIGANDI. The right of navigating or navigation; the right of commerce by

ships or by sea. Locc. de Jure Mar. lib. 1, c. 3.

JUS NECIS. In Roman law. The right of death, or of putting to death. A right which a father anciently had over his children.

Jus non habenti tute non paretur. One who has no right cannot be safely obeyed. Hob. 146.

Jus non patitur ut idem bis solvatur. Law does not suffer that the same thing be twice paid.

JUS NON SACRUM.

In Roman Law

That portion of the *jus publicum* which regulated the duties of magistrates.

Non-sacred law; that which dealt with the duties of civil magistrates, the preservation of public order, and the rights and duties of persons in their relation to the state. Morey, Rom. L. 223. It was analogous to that which would now be called the police power.

JUS NON SCRIPTUM. The unwritten law. 1 Bl. Comm. 64.

JUS OFFERENDI. In Roman law, the right of subrogation, that is, the right of succeeding to the lien and priority of an elder creditor on tendering or paying into court the amount due to him. See Mackeld. Rom. Law, § 355.

JUS ONERIS FERENDI. An urban servitude in the Roman Law, the owner of which had the right of supporting and building upon the house wall of another.

JUS PAPIRIANUM. The civil law of Papirius. The title of the earliest collection of Roman *leges curiatæ*, said to have been made in the time of Tarquin, the last of the kings, by a *pontifex maximus* of the name of Sextus or Publius Papirius. Very few fragments of this collection now remain, and the authenticity of these has been doubted. Mackeld. Rom. Law, § 21.

JUS PASCENDI. In the civil and old English law. The right of pasturing cattle. Inst. 2, 3, 2; Bract. fols. 53*b*, 222.

JUS PATRONATUS. In English ecclesiastical law. The right of patronage; the right of presenting a clerk to a benefice. Blount.

A commission from the bishop, where two presentations are offered upon the same avoidance, directed usually to his chancellor and others of competent learning, who are to summon a jury of six clergymen and six laymen to inquire into and examine who is the rightful patron. 3 Bl. Comm. 246; 3 Steph. Comm. 517.

JUS PERSONARUM. Rights of persons. Those rights which, in the civil law, belong to persons as such, or in their different characters and relations; as parents and children, masters and servants, etc.

JUS PŒNITENDI. In Roman law, the right of rescission or revocation of an executory contract on failure of the other party to fulfill his part of the agreement. See Mackeld. Rom. Law, § 444.

JUS PORTUS. In maritime law. The right of port or harbor.

JUS POSSESSIONIS. The right of possession.

JUS POSSIDENDI. The right of possessing, which is the legal consequence of ownership. It is to be distinguished from the *jus possessionis (q. v.)*, which is a right to possess which may exist without ownership.

JUS POSTLIMINII.

In the Civil Law

The right of postliminy; the right or claim of a person who had been restored to the possession of a thing, or to a former condition, to be considered as though he had never been deprived of it. Dig. 49, 15, 5; 3 Bl. Comm. 107, 210.

In International Law

The right by which property taken by an enemy, and recaptured or rescued from him by the fellow-subjects or allies of the original owner, is restored to the latter upon certain terms. 1 Kent, Comm. 108.

JUS PRÆSENS. In the civil law. A present or vested right; a right already completely acquired. Mackeld. Rom. Law, § 191.

JUS PRÆTORIUM. In the civil law. The discretion of the prætor, as distinct from the *leges*, or standing laws. 3 Bl. Comm. 49. That kind of law which the prætors introduced for the purpose of aiding, supplying, or correcting the civil law for the public benefit. Dig. 1, 1, 7. Called, also, "*jus honorarium*," *(q. v.)*

JUS PRECARIUM. In the civil law. A right to a thing held for another, for which there was no remedy by legal action, but only by entreaty or request. 2 Bl. Comm. 328.

JUS PRESENTATIONIS. The right of presentation.

JUS PRIVATUM. Private law; the law regulating the rights, conduct, and affairs of individuals, as distinguished from "public" law, which relates to the constitution and functions of government and the administration of criminal justice. See Mackeld. Rom. Law, § 124. Also private ownership, or the

right, title, or dominion of a private owner, as distinguished from "*jus publicum*," which denotes public ownership, or the ownership of property by the government, either as a matter of territorial sovereignty or in trust for the benefit and advantage of the general public. In this sense, a state may have a double right in given property, *e. g.*, lands covered by navigable waters within its boundaries, including both "*jus publicum*," a sovereign or political title, and "*jus privatum*," a proprietary ownership. See Oakland v. Oakland Water Front Co., 118 Cal. 160, 50 P. 277.

JUS PROJICIENDI. In the civil law. The name of a servitude which consists in the right to build a projection, such as a balcony or gallery, from one's house in the open space belonging to one's neighbor, but without resting on his house. Dig. 50, 16, 242; Id. 8, 2, 2; Mackeld. Rom. Law, § 317.

JUS PROPRIETATIS. The right of property, as distinguished from the *jus possessionis*, or right of possession. Bract. fol. 3. Called by Bracton "*jus merum*," the mere right. Id.; 2 Bl. Comm. 197; 3 Bl. Comm. 19, 176.

JUS PROTEGENDI. In the civil law. The name of a servitude. It is a right by which a part of the roof or tiling of one house is made to extend over the adjoining house. Dig. 50, 16, 242, 1; Id. 8, 2, 25; Id. 8, 5, 8, 5.

JUS PROTIMESEOS. The right of pre-emption of a landlord in case the tenant wishes to dispose of his rights as a perpetual lessee. Sohm, Inst. Rom. L. § 57. *Pactum protimeseos* was the right of pre-emption to the seller; *i. e.* in case the buyer should sell, he must sell to the former seller. Hunter, Rom. L. 503.

JUS PROVINCIARUM. A franchise conferred upon provincials much more limited than that conferred upon the people of Italy.

It has been described as "equivalent to the *jus italicum* minus the freedom from land taxation which the latter right involved. In short, the provincials possessed no status as Roman citizens; and even their capacity of ownership in their own land was qualified by their tributary obligations to Rome. The civil incapacity of the provincials had reference, however, merely to their exclusion from the strictly legal rights sanctioned by the *jus civile*." Morey, Rom. L. 55.

JUS PUBLICUM. Public law, or the law relating to the constitution and functions of government and its officers and the administration of criminal justice. Also public ownership, or the paramount or sovereign territorial right or title of the state or government. See Jus Privatum.

Jus publicum et privatum quod ex naturalibus præceptis aut gentium aut civilibus est collectum; et quod in jure scripto jus appellatur, id in lege Angliæ rectum esse dicitur. Co. Litt. 185. Public and private law is that which is collected from natural principles, either of nations or in states; and that which in the civil law is called "*jus*," in the law of England is said to be "right."

Jus publicum privatorum pactis mutari non potest. A public law or right cannot be altered by the agreements of private persons.

JUS QUÆSITUM. A right to ask or recover; for example, in an obligation there is a binding of the obligor, and a *jus quæsitum* in the obligee. 1 Bell, Comm. 323.

JUS QUIRITIUM. The old law of Rome, that was applicable originally to patricians only, and, under the Twelve Tables, to the entire Roman people, was so called, in contradistinction to the *jus prætorium, (q. v.,)* or equity. Brown.

Jus quo universitates utuntur est idem quod habent privati. The law which governs corporations is the same which governs individuals. Foster v. Essex Bank, 16 Mass. 265, 8 Am. Dec. 135.

JUS RECUPERANDI. The right of recovering [lands.]

JUS RELICTÆ. In Scotch law. The right of a relict; the right or claim of a relict or widow to her share of her husband's estate, particularly the movables. 2 Kames, Eq. 340; 1 Forb. Inst. pt. 1, p. 67.

JUS REPRESENTATIONIS. The right of representing or standing in the place of another, or of being represented by another.

JUS RERUM. The law of things. The law regulating the rights and powers of persons over things; how property is acquired, enjoyed, and transferred.

Jus respicit æquitatem. Law regards equity. Co. Litt. 24*b*; Broom, Max. 151.

JUS SACRUM.

In Roman Law

That portion of the public law which was concerned with matters relating to public worship and including the regulation of sacrifices and the appointment of priests. There was a general division of the *jus publicum* into *jus sacrum* and *jus non sacrum (q. v.).*

JUS SANGUINIS. The right of blood. See Jus Soli.

JUS SCRIPTUM.

In Roman Law

Written law. Inst. 1, 2, 3. All law that was actually committed to writing, whether

it had originated by enactment or by custom, in contradistinction to such parts of the law of custom as were not committed to writing. Mackeld. Rom. Law, § 126. After stating that the Roman law was written and unwritten just as it was among the Greeks, Justinian adds: "The written part consists of laws, *plebiscita*, *senatus-consulta*, enactments of emperors, edicts of magistrates, and answers of jurisprudents." Sand. Inst. Just. 1, 2, 3. See Jus Ex Non Scripto.

In English Law

Written law, or statute law, otherwise called *"lex scripta,"* as distinguished from the common law, *"lex non scripta."* 1 Bl. Comm. 62.

JUS SINGULARE. In the civil law. A peculiar or individual rule, differing from the *jus commune*, or common rule of right, and established for some special reason. Mackeld. Rom. Law, § 196.

JUS SOLI. The law of the place of one's birth as contrasted with *jus sanguinis*, the law of the place of one's descent or parentage. It is of feudal origin. Hershey, Int. L. 237.

JUS SPATIANDI. A right of way over land by the public by uses merely for the purposes of recreation and instruction. It is usually limited to the cases of highways, parks, and squares. The public were denied any right in the grounds containing the ancient druidical monuments at Stonehenge; Attorney-General v. Antrobus, [1905] 2 Ch. 188. See 19 Harv. L. Rev. 55. See Du Cange, Glossarium, for a definition under the word *spatiare*.

JUS STAPULÆ. In old European law. The law of staple; the right of staple. A right or privilege of certain towns of stopping imported merchandise, and compelling it to be offered for sale in their own markets. Locc. de Jure Mar. lib. 1, c. 10.

JUS STILLICIDII VEL FLUMINIS RECIPIENDI.

In Roman Law

An urban servitude giving the owner a right to project his roof over the land of another or to open a house drain upon it.

JUS STRICTUM. Strict law; law interpreted without any modification, and in its utmost rigor.

JUS SUFFRAGII.

In Roman Law

The right of voting. This and the *jus honorum* (*q. v.*) were the public rights of the Roman citizen.

Jus superveniens auctori accrescit successori. A right growing to a possessor accrues to the successor. Halk. Lat. Max. 76.

JUS TERTII. The right of a third party. A tenant, bailee, etc., who pleads that the title is in some person other than his landlord, bailor, etc., is said to set up a *jus tertii*. Dempsey Oil & Gas Co. v. Citizens' Nat. Bank, 110 Okl. 39, 235 P. 1104, 1107.

Jus testamentorum pertinet ordinario. Y. B. 4 Hen. VII., 13*b*. The right of testaments belongs to the ordinary.

JUS TIGNI IMMITTENDI.

In Roman Law

An urban servitude which gave the right of inserting a beam into the wall of another.

JUS TRIPERTITUM. In Roman law. A name applied to the Roman law of wills, in the time of Justinian, on account of its threefold derivation, viz., from the prætorian edict, from the civil law, and from the imperial constitutions. Maine, Anc. Law, 207.

Jus triplex est,—proprietatis, possessionis, et possibilitatis. Right is threefold,—of property, of possession, and of possibility.

JUS TRIUM LIBERORUM. In Roman law. A right or privilege allowed to the parent of three or more children. 2 Kent, Comm. 85; 2 Bl. Comm. 247. These privileges were an exemption from the trouble of guardianship, priority in bearing offices, and a treble proportion of corn. Adams, Rom. Ant. (Am. Ed.) 227.

JUS UTENDI. The right to use property without destroying its substance. It is employed in contradistinction to the *jus abutendi*. 3 Toullier, no. 86.

JUS VENANDI ET PISCANDI. The right of hunting and fishing.

Jus vendit quod usus approbavit. Ellesm. Postn. 35. The law dispenses what use has approved.

Jusjurandi forma verbis differt, re convenit; hunc enim sensum habere debet, ut Deus invocetur. The form of taking an oath differs in language, agrees in meaning; for it ought to have this sense, that the Deity is invoked. Grotius, b. 2, c. 13, s. 10.

JUSJURANDUM. Lat. An oath.

Jusjurandum inter alios factum nec nocere nec prodesse debet. An oath made between others ought neither to hurt nor profit. 4 Inst. 279.

JUS VITÆ NECISQUE.

In Roman Law

The right of life and death. Originally a father, or his *pater-familias* if he was himself in domestic subjection, could decide—not arbitrarily, but judicially—whether or not to rear his child; and while this right

became subject to certain restrictions, yet when the child had grown up, the father, in the exercise of his domestic jurisdiction, might visit his son's misconduct, both in private and public life, with such punishment as he thought fit, even banishment, slavery, or death. In the early Empire these rights became relaxed, and they disappeared in the Justinian law. Muirhead, Roman Law, 28, 346, 417. See Patria Potestas.

JUST. Right; in accordance with law and justice. McKeon v. National Casualty Co., 216 Mo. App. 507, 270 S. W. 707, 712; Fuchs v. Lehman, 47 N. D. 58, 181 N. W. 85, 87; State v. Langford, 90 Or. 251, 176 P. 197, 202; New Haven Water Co. v. City of New Haven, 106 Conn. 562, 139 A. 99, 105; Lake Hancock & C. R. Co. v. Stinson, 77 Fla. 333, 81 So. 512.

"The words 'just' and 'justly' do not always mean 'just' and 'justly' in a moral sense, but they not unfrequently, in their connection with other words in a sentence, bear a very different signification. It is evident, however, that the word 'just' in the statute [requiring an affidavit for an attachment to state that plaintiff's claim is *just*] means 'just' in a moral sense; and from its isolation, being made a separate subdivision of the section, it is intended to mean 'morally just' in the most emphatic terms. The claim must be *morally* just, as well as *legally* just, in order to entitle a party to an attachment." Robinson v. Burton, 5 Kan. 300.

JUST BEYOND. Will directing erection of chapel "just beyond" the basin means barely beyond, scarcely beyond, or closely beyond, with the least practical space between it and the basin. Carroll v. Cave Hill Cemetery Co., 172 Ky. 204, 189 S. W. 186, 189.

JUST CAUSE. Legitimate cause; legal or lawful ground for action; such reasons as will suffice in law to justify the action taken. State v. Baker, 112 La. 801, 36 So. 703; Claiborne v. Railroad Co., 46 W. Va. 371, 33 S. E. 265; State v. Langford, 90 Or. 251, 176 P. 197, 202; State v. Donzi, 133 La. 925, 63 So. 405, 406; Arthur v. City of Philadelphia, 273 Pa. 419, 117 A. 269, 270; State v. Caldwell (Mo. Sup.) 231 S. W. 613, 615; State v. Wohlfort, 123 Kan. 62, 254 P. 317, 320.

JUST COMPENSATION. As used in the constitutional provision that private property shall not be taken for public use without "just compensation," this phrase means a full and fair equivalent for the loss sustained by the taking for public use. It may be more or it may be less than the mere money value of the property actually taken. The exercise of the power being necessary for the public good, and all property being held subject to its exercise when and as the public good requires it, it would be unjust to the public that it should be required to pay the owner more than a fair indemnity for the loss he sustains by the appropriation of his property for the general good. On the other hand, it would be equally unjust to the owner if he should receive less than a fair indemnity for such loss. To arrive at this fair indemnity, the interests of the public and of the owner, and all the circumstances of the particular appropriation, should be taken into consideration. Lewis, Em. Dom. § 462. And see Butler Hard Rubber Co. v. Newark, 61 N. J. Law, 32, 40 A. 224; Trinity College v. Hartford, 32 Conn. 452; Bauman v. Ross, 167 U. S. 548, 17 S. Ct. 966, 42 L. Ed. 270; Putnam v. Douglas County, 6 Or. 332, 25 Am. Rep. 527; Laflin v. Railroad Co. (C. C.) 33 F. 417; Newman v. Metropolitan El. R. Co., 118 N. Y. 623, 23 N. E. 901, 7 L. R. A. 289; Monongahela Nav. Co. v. U. S., 148 U. S. 312, 13 S. Ct. 622, 37 L. Ed. 463; Railway Co. v. Stickney, 150 Ill. 362, 37 N. E. 1098, 26 L. R. A. 773; Chase v. Portland, 86 Me. 367, 29 A. 1104; Spring Valley Waterworks v. Drinkhouse, 92 Cal. 536, 28 P. 683.

JUST DEBTS. As used in a will or a statute, this term means legal, valid, and incontestable obligations, not including such as are barred by the statute of limitations or voidable at the election of the party. See Burke v. Jones, 2 Ves. & B. 275; Martin v. Gage, 9 N. Y. 401; Peck v. Botsford, 7 Conn. 176, 18 Am. Dec. 92; Collamore v. Wilder, 19 Kan. 82; Smith v. Mayo, 9 Mass. 63, 6 Am. Dec. 28; People v. Tax Com'rs, 99 N. Y. 154, 1 N. E. 401.

JUST TITLE. By the term "just title," in cases of prescription, we do not understand that which the possessor may have derived from the true owner, for then no true prescription would be necessary, but a title which the possessor may have received from any person whom he honestly believed to be the real owner, provided the title were such as to transfer the ownership of the property. Civ. Code La. art. 3484; Davis v. Gaines, 104 U. S. 400, 26 L. Ed. 757; Sunol v. Hepburn, 1 Cal. 254; Kennedy v. Townsley, 16 Ala. 248; Johnson v. Sugar, 163 La. 785, 112 So. 721, 722; B. Fernandez & Bros. v. Ayllon, 266 U. S. 144, 45 S. Ct. 52, 69 L. Ed. 209. One good against all the world. Virginia & West Virginia Coal Co. v. Charles (C. C. A.) 254 F. 379, 387.

JUST VALUE. In taxation, the fair, honest, and reasonable value of property, without exaggeration or depreciation; its actual market value. State v. Smith, 158 Ind. 543, 63 N. E. 214, 63 L. R. A. 116; Winnipiseogee Lake, etc., Co. v. Gilford, 67 N. H. 514, 35 A. 945.

JUSTA. In old English law. A certain measure of liquor, being as much as was sufficient to drink at once. Mon. Angl. t. 1, c. 149.

JUSTA CAUSA. In the civil law. A just cause; a lawful ground; a legal transaction of some kind. Mackeld. Rom. Law, § 283.

JUSTICE, *v.* In old English practice. To do justice; to see justice done; to summon one to do justice.

JUSTICE, *n.*

In Jurisprudence

The constant and perpetual disposition to render every man his due. Inst. 1, 1, pr.; 2 Inst. 56. See Borden v. State, 11 Ark. 528, 44 Am. Dec. 217; Duncan v. Magette, 25 Tex. 253; The John E. Mulford (D. C.) 18 F. 455. The conformity of our actions and our will to the law. Toull. Droit Civil Fr. tit. prél. no. 5; Livingston Oil Corporation v. Henson, 90 Okl. 76, 215 P. 1057, 1059.

In the most extensive sense of the word it differs little from "virtue;" for it includes within itself the whole circle of virtues. Yet the common distinction between them is that that which, considered positively and in itself, is called "virtue," when considered relatively and with respect to others has the name of "justice." But "justice," being in itself a part of "virtue," is confined to things simply good or evil, and consists in a man's taking such a proportion of them as he ought. Bouvier.

Commutative justice is that which should govern contracts. It consists in rendering to every man the exact measure of his dues, without regard to his personal worth or merits, *i. e.*, placing all men on an equality. *Distributive* justice is that which should govern the distribution of rewards and punishments. It assigns to each the rewards which his personal merit or services deserve, or the proper punishment for his crimes. It does not consider all men as equally deserving or equally blameworthy, but discriminates between them, observing a just proportion and comparison. This distinction originated with Aristotle. (Eth. Nic. V.) See Fonbl. Eq. 3; Toull. Droit Civil Fr. tit. prél. no. 7.

In Norman French

Amenable to justice. Kelham.

In Feudal Law

Jurisdiction; judicial cognizance of causes or offenses.

High justice was the jurisdiction or right of trying crimes of every kind, even the highest. This was a privilege claimed and exercised by the great lords or barons of the middle ages. 1 Robertson's Car. V., appendix, note 23. *Low* justice was jurisdiction of petty offenses.

In Common Law

The title given in England to the judges of the king's bench and the common pleas, and in America to the judges of the supreme court of the United States and of the appellate courts of many of the states. It is said that this word in its Latin form (*justitia*) was properly applicable only to the judges of common-law courts, while the term "*judex*" designated the judges of ecclesiastical and other courts. See Leg. Hen. I, §§ 24, 63; Co. Litt. 71*b*.

The same title is also applied to some of the judicial officers of the lowest rank and jurisdiction, such as police justices and justices of the peace.

In General

—Justice ayres (or aires). In Scotch law. Circuits made by the judges of the justiciary courts, through the country, for the distribution of justice. Bell.

—Justice in eyre. From the old French word "*eire*," *i. e.*, a journey. Those justices who in ancient times were sent by commission into various counties, to hear more especially such causes as were termed "pleas of the crown," were called "justices in eyre." They differed from justices in oyer and terminer, inasmuch as the latter were sent to one place, and for the purpose of trying only a limited number of special causes; whereas the justices in eyre were sent through the various counties, with a more indefinite and general commission. In some respects they resembled our present justices of assize, although their authority and manner of proceeding differed much from them. Brown.

—Justice seat. In English law. The principal court of the forest, held before the chief justice in eyre, or chief itinerant judge or his deputy; to hear and determine all trespasses within the forest, and all claims of franchises, liberties, and privileges, and all pleas and causes whatsoever therein arising. 3 Bl. Comm. 72; 4 Inst. 291; 3 Steph. Comm. 440.

—Justices of appeal. The title given to the ordinary judges of the English court of appeal. The first of such ordinary judges are the two former lords justices of appeal in chancery, and one other judge appointed by the crown by letters patent. Jud. Act 1875, § 4 (28 USCA § 79).

—Justices of assize. These justices, or, as they are sometimes called, "justices of *nisi prius*," are judges of the superior English courts, who go on circuit into the various counties of England and Wales for the purpose of disposing of such causes as are ready for trial at the assizes. See Assize.

—Justices of gaol delivery. Those justices who are sent with a commission to hear and determine all causes appertaining to persons, who, for any offense, have been cast into gaol. Part of their authority was to punish those who let to mainprise those prisoners who were not bailable by law, and they seem formerly to have been sent into the country upon this exclusive occasion, but afterwards had the same authority given them as the justices of assize. Brown.

—Justices of laborers. In old English law. Justices appointed to redress the frowardness

of laboring men, who would either be idle or have unreasonable wages. Blount.

—Justices of nisi prius. In English law. This title is now usually coupled with that of *justices of assize;* the judges of the superior courts acting on their circuits in both these capacities. 3 Bl. Comm. 58, 59.

—Justices of oyer and terminer. Certain persons appointed by the king's commission, among whom were usually two judges of the courts at Westminster, and who went twice in every year to every county of the kingdom, (except London and Middlesex,) and, at what was usually called the "assizes," heard and determined all treasons, felonies, and misdemeanors. Brown.

—Justices of the bench. The justices of the court of common bench or common pleas.

—Justices of the forest. In old English law. Officers who had jurisdiction over all offenses committed within the forest against vert or venison. The court wherein these justices sat and determined such causes was called the "justice seat of the forest." They were also sometimes called the "justices in eyre of the forest." Brown.

—Justices of the hundred. Hundredors; lords of the hundreds; they who had the jurisdiction of hundreds and held the hundred courts.

—Justices of the Jews. Justices appointed by Richard I. to carry into effect the laws and orders which he had made for regulating the money contracts of the Jews. Brown.

—Justices of the pavilion. In old English law. Judges of a pyepowder court, of a most transcendant jurisdiction, anciently authorized by the bishop of Winchester, at a fair held on St. Giles' Hills near that city. Cowell; Blount.

—Justices of the quorum. See Quorum.

—Justices of trail-baston. In old English law. A kind of justices appointed by King Edward I. upon occasion of great disorders in the realm, during his absence in the Scotch and French wars. They were a kind of justices in eyre, with great powers adapted to the emergency, and which they exercised in a summary manner. Cowell; Blount.

JUSTICE OF THE PEACE.

In American Law

A judicial officer of inferior rank holding a court not of record, and having (usually) civil jurisdiction of a limited nature, for the trial of minor cases, to an extent prescribed by statute, and for the conservation of the peace and the preliminary hearing of criminal complaints and the commitment of offenders. See Wenzler v. People, 58 N. Y. 530; Com. v. Frank, 21 Pa. Co. Ct. R. 120; Weikel v. Cate, 58 Md. 110; Smith v. Abbott, 17 N. J. Law, 366; People v. Mann, 97 N. Y. 530, 49 Am. Rep. 556.

In English Law

Judges of record appointed by the crown to be justices within a certain district, (*e. g.*, a county or borough,) for the conservation of the peace, and for the execution of divers things, comprehended within their commission and within divers statutes, committed to their charge. Stone, J. Pr. 2.

JUSTICEMENTS. An old general term for all things appertaining to justice.

JUSTICER. The old form of *justice.* Blount.

JUSTICE'S COURTS. Inferior tribunals, not of record, with limited jurisdiction, both civil and criminal, held by justices of the peace. There are courts so called in many of the states. See Searl v. Shanks, 9 N. D. 204, 82 N. W. 734; Brownfield v. Thompson, 96 Mo. App. 340, 70 S. W. 378.

JUSTICESHIP. Rank or office of a justice.

JUSTICIABLE. Proper to be examined in courts of justice.

JUSTICIAR. In old English law. A judge or justice. One of several persons learned in the law, who sat in the *aula regis,* and formed a kind of court of appeal in cases of difficulty.

High Justicier

In old French and Canadian law. A feudal lord who exercised the right called "high justice." Guyot, Inst. Feod. c. 26.

JUSTICIARII ITINERANTES. In English law. Justices in eyre, who formerly went from county to county to administer justice. They were so called to distinguish them from justices residing at Westminster, who were called "*justicii residentes.*" Co. Litt. 293.

JUSTICIARII RESIDENTES. In English law. Justices or judges who usually resided in Westminster. They were so called to distinguish them from justices in eyre. Co. Litt. 293.

JUSTICIARY. An old name for a judge or justice. The word is formed on the analogy of the Latin "*justiciarius*" and French "*justicier,*" and is a variant of *justiciar* (*q. v.*).

JUSTICIARY COURT. The chief criminal court of Scotland, consisting of five lords of session, added to the justice general and justice clerk; of whom the justice general, and, in his absence, the justice clerk, is president. This court has a jurisdiction over all crimes, and over the whole of Scotland. Bell.

JUSTICIATUS. Judicature; prerogative.

JUSTICIES. In English law. A writ directed to the sheriff, empowering him, for the sake of dispatch, to try an action in his county court for a larger amount than he has the ordinary power to do. It is so called because it is a commission to the sheriff to do the party justice, the word itself meaning, "You may do justice to ———." 3 Bl. Comm. 36; 4 Inst. 266.

JUSTIFIABLE. Rightful; warranted or sanctioned by law; that which can be shown to be sustained by law; as justifiable homicide. See Homicide.

JUSTIFICATION. A maintaining or showing a sufficient reason in court why the defendant did what he is called upon to answer, particularly in an action of libel. A defense of justification is a defense showing the libel to be true, or in an action of assault showing the violence to have been necessary. See Steph. Pl. 184. A sufficient lawful reason why a person did or did not do the thing charged. Mercardo v. State, 86 Tex. Cr. R. 559, 218 S. W. 491, 492; State v. Rish, 104 S. C. 250, 88 S. E. 531, 534.

In Practice

The proceeding by which bail establish their ability to perform the undertaking of the bond or recognizance.

JUSTIFICATORS. A kind of compurgators, (*q. v.*,) or those who by oath justified the innocence or oaths of others; as in the case of wager of law.

JUSTIFYING BAIL consists in proving the sufficiency of bail or sureties in point of property, etc.

The production of bail in court, who there justify themselves against the exception of the plaintiff.

JUSTINIANIST. A civilian; one who studies the civil law.

JUSTITIA. Lat. Justice. A jurisdiction, or the office of a judge.

Justitia debet esse libera, quia nihil iniquius venali justitia; plena, quia justitia non debet claudicare; et celeris, quia dilatio est quædam negatio. Justice ought to be free, because nothing is more iniquitous than venal justice; full, because justice ought not to halt; and speedy, because delay is a kind of denial. 2 Inst. 56.

Justitia est constans et perpetua voluntas jus suum cuique tribuendi. Justice is a steady and unceasing disposition to render to every man his due. Inst. 1, 1, pr.; Dig. 1, 1, 10.

Justitia est duplex, viz., severe puniens et vere prævenlens. 3 Inst. Epil. Justice is double; punishing severely, and truly preventing.

Justitia est virtus excellens et Altissimo complacens. 4 Inst. 58. Justice is excellent virtue and pleasing to the Most High.

Justitia firmatur solium. 3 Inst. 140. By justice the throne is established.

Justitia nemini neganda est. Jenk. Cent. 178. Justice is to be denied to none.

Justitia non est neganda non differenda. Jenk. Cent. 93. Justice is neither to be denied nor delayed.

Justitia non novit patrem nec matrem; solam veritatem spectat justitia. Justice knows not father nor mother; justice looks at truth alone. 1 Bulst. 199.

JUSTITIA PIEPOUDROUS. Speedy justice. Bract. 333*b*.

JUSTITIUM. Lat. In the civil law. A suspension or intermission of the administration of justice in courts; vacation time. Calvin.

JUSTIZA. In Spanish law. The name anciently given to a high judicial magistrate, or supreme judge, who was the ultimate interpreter of the laws, and possessed other high powers.

JUSTS, or JOUSTS. Exercises between martial men and persons of honor, with spears, on horseback; different from *tournaments*, which were military exercises between many men in troops. 24 Hen. VIII. c. 13.

Justum non est aliquem antenatum mortuum facere bastardum, qui pro tota vita sua pro legitimo habetur. It is not just to make a bastard after his death one elder born who all his life has been accounted legitimate. 8 Coke, 101.

JUVENILE COURTS. Courts having special jurisdiction, of a paternal nature, over delinquent and neglected children.

JUXTA. Lat. Near; following; according to.

JUXTA CONVENTIONEM. According to the covenant. Fleta lib. 4, c. 16, § 6.

JUXTA FORMAM STATUTI. According to the form of the statute.

JUXTA RATAM. At or after the rate. Dyer, 82.

JUXTA TENOREM SEQUENTEM. According to the tenor following. 2 Salk. 417. A phrase used in the old books when the very words themselves referred to were set forth. Id.; 1 Ld. Raym. 415.

JUZGADO. In Spanish law. The judiciary; the body of judges; the judges who concur in a decree.